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ABSTRACT

This report examines the extent to which proposals to decentralize public education can be implemented by individuals, groups, or institutions prepared to operate charter schools. Charter schools must be able to balance autonomy for decisions relating to educational programs and accountability with academic standards and market forces. Massachusetts' charter schools enjoy broad autonomy, with full control over educational programs, personnel and business decisions, and governance. Responsiveness to market forces and the responsible exercise of autonomy requires a wide range of capabilities, including expertise in special education, business management, government operations, administrative capacity, financial backing, and strong community relationships. While schools often turn to technical-assistance organizations and private sources of finance for private-sector support, government regulation also significantly affects the ability of charter schools to form and operate. Several barriers limited the pool of charter applicants, including access to suitable facilities and capital, limits on charter numbers in the largest urban areas, inability to overcome opposition, and untimely government rulings. To encourage charter schools, legislators should appropriately prescribe autonomy; tailor eligibility to the scope of autonomy; ensure staff expertise; avoid permanent caps; encourage institutions of higher learning to target typical students, and improve access to facilities and expertise. Chartering agencies must learn from experiences in other states and match staff capacity to the scope of autonomy. To effectively promote charter schools, private foundations should invest in nonprofit technical-support organizations, encourage qualified applicants to target mainstream students, and create funds to train promising applicants and provide down-payment loans for the purchase and renovation of facilities by nonprofit charter-school operators. (Appendix A provides study methods and contains 38 references. Appendix B presents the

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Massachusetts Charter School Statute.) (TEJ)

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Center on Reinventing Public Education

Supplying a System of Charter Schools: Observations on Early Implementation of the Massachusetts Statute

PREPARED FOR THE GUND FOUNDATION

Marc Dean Millot with Robin Lake

June, 1997

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Preface

This report examines the "supply side" of education reform – the extent to which proposals to decentralize public education can be implemented by the individuals, groups, or institutions prepared to operate schools in the new system. Charter schools are the focus of this study, and particularly the early development of the system of schools permitted by the charter school statute that Massachusetts enacted in 1993.

Although it is too early to judge the educational success of charter schools, the analysis should be particularly useful in identifying problems related to the design, approval, and start-up of individual charter schools that may affect their educational performance. In those states with charter school legislation, this analysis should inform decisions to amend existing legislation before the charter school program grows. For those states without charter school statutes, this analysis should help legislators to consider new approaches to legislation.

This work was sponsored in part by The Gund Foundation. It was conducted by the joint RAND/University of Washington Center on Reinventing Education and RAND's Institute on Education and Training.

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Summary

This report examines the "supply side" of education reform -- the extent to which proposals to decentralize public education can be implemented by the individuals, groups, or institutions prepared to operate schools in the new system. Charter schools are the focus of this study, and particularly the early development of the system of schools permitted by the charter school statute that Massachusetts enacted in 1993.

Charter school legislation offers individual public schools some measure of autonomy from state and district regulation. In return, the schools accept accountability for results. On the autonomy side of this bargain, the individual school controls decisions essential to the success of its educational program. This always includes control over the school's curriculum and instructional strategies. It may extend to management of the human and financial resources allocated to the school, as well as to command of the decision processes of schools in their role as government agencies -- including admissions, discipline, and procurement. Charter school statutes generally allow schools currently managed by school districts to convert to charter status and/or provide a vehicle for the formation of entirely new public schools.

On the accountability side, the charter under which the school operates must be approved by local and/or state education authorities, typically for a term of three to five years. At a minimum, the school is held responsible to the chartering agency for its educational performance. If autonomy extends to the economic and public agency arenas, the school will be accountable, both for sound management, and fair and open decision processes. In keeping with the values of public education, charter schools may not charge tuition or teach religion and are generally subject to open enrollment requirements.

Most charter schools -- but especially those whose autonomy includes financial management – are also accountable to market forces. Their funding is based on the number of students attending the school. Each student represents some, and perhaps all, of the average per-pupil expenditure on public school operations from federal, state, and local sources in the district where the student resides. If they either fail to attract enough students or prove unable to keep costs in line with revenues, charter schools go out of business.

Massachusetts charter schools have a very broad scope of autonomy. They are distinct legal entities with full control over the school's educational program, personnel and business decisions, and governance. They are not under the control or supervision of local school districts, but are subject to most of the same rules and regulations. It takes a broad array of capabilities to exercise that autonomy responsibly. In addition, the Massachusetts statute creates a very large pool of potential applicants. Virtually any group or organization – public or private -- may be approved to operate a charter school.

Charter School Applicants, Private Sources of Support, and Government

The first 65 charter school applicants in Massachusetts, leading to the first 15 schools that opened their doors to students in September 1995, comprised a wide range of potential operators. Applicants included three national and four local private businesses engaged in education, six institutions of higher education, 13 community service organizations, and 32 "grassroots" groups of educators, parents, and activist citizens. As shown in Tables 1 and 2, applicants differed in their motivations, in the size and locations of the schools they proposed, and in the types of students they hoped to serve.

Table 1.
Applicants' Motivations

Type	Essential Motivation
Big Business	Demonstrate effectiveness of school design to national market
Small Business	Pursue entrepreneurial opportunity in local market
Higher Education	Fund existing programs with new source of revenues Create "laboratory school" for research, development, and training
Community Service Organization	Extend mission by integrating education with existing programs
Educator	Create a school where members can pursue their vision of public education
Parent	Create a school where members can send their children and pursue their vision of education
Citizen	Change the local public school system by creating a school based on their vision of public education

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Table 2.
Schools Proposed by Applicants

Applicant Type	Big Business	Small Business	Higher Ed.	Community Service	Educator	Parent	Citizen
Location	Urban	Suburban	Urban	Urban	Urban	Urban Suburban Rural	
Target Student	Mainstream	Mainstream	Mainstream	Other	Mainstream Other	Mainstream	
Grades	K-12	K-12	8-12	K-8 9-12	5-8 K-12	K-8	
Size Yr 1	avg. 447	10-150	avg. 195	avg. 144	avg.143	avg.120	
Size Yr 5	avg. 959	40-400	avg. 195	avg. 318	avg.225	avg. 205	

Because charter schools must be responsive to market forces and also exercise the autonomy offered by the Massachusetts statute in a responsible fashion, charter holders must possess a wide range of capabilities. They must have access to facilities. They need expertise in educational programs and school administration – including special education, business management, and government operations. They must have the administrative capacity to weave this expertise into a viable proposal and, later, a well-run school. They must have some financial backing to hire staff, buy equipment and purchase educational materials before they open their doors, lease or purchase real estate, and renovate their facility. They need strong relationships with community institutions, including local banks, newspapers, and government. They need the community's good will. As shown in Table 3, the applicants varied in these capabilities.

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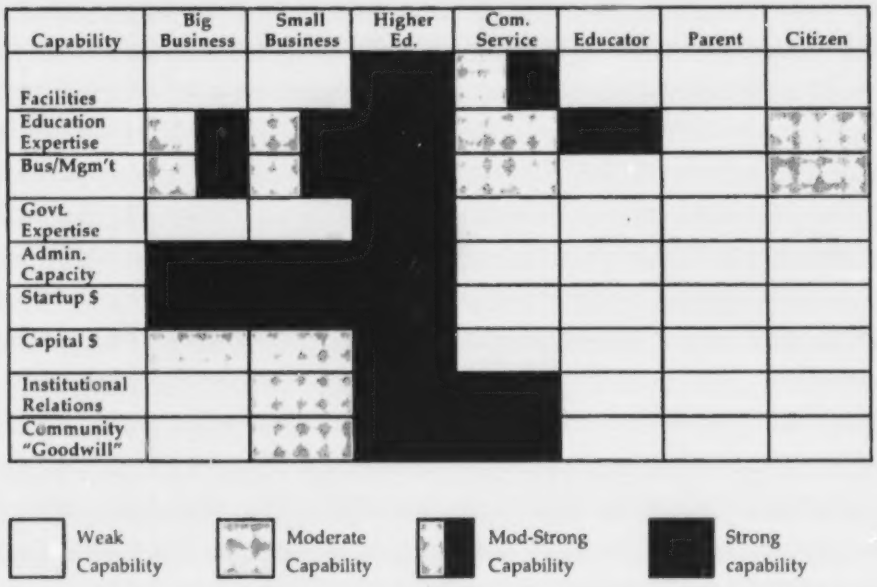
Table 3
The Capabilities of Applicant Groups



To supplement their own capacities, charter school applicants turned to technical assistance organizations and professional experts, and they considered organizing an association of charter schools. To obtain facilities and capital, most charter school applicants turned to owners of suitable private property and to private sources of finance.

The ability of the private sector to provide, support, and develop capable charter school applicants is only part of the supply-side story. In addition, the system of government oversight must allow qualified operators to open schools and regulate the schools in ways that ensure compliance with the law, without discouraging too many from starting schools. In Massachusetts, the government institutions with the greatest influence on the supply side of charter school implementation included the staff in the Secretary of Education's Executive Office of Education, local governments – particularly local school boards, and the state legislature.

Barriers to the Supply of Qualified Applicants

Several factors limited the supply of qualified charter school applicants in Massachusetts. Some were problems for every type of applicant, while others affected only a subset. (See Table 4.)

Table 4..

Principal "Supply-Side" Barriers

Barrier	For Profit	Higher Ed.	Com. Service	Grass Roots
Facilities Shortage	Major Barrier	No Barrier	Major Barrier	Major Barrier
Urban Cap	Major Barrier	Major Barrier	Major Barrier	No Barrier
Access to Expertise	No Barrier	No Barrier	Minor Barrier	Major Barrier
Access to Start Up $	No Barrier	No Barrier	Minor Barrier	Major Barrier
Access to Capital $	Minor Barrier	No Barrier	Major Barrier	Major Barrier
Untimely Gov't Rulings	No Barrier	No Barrier	No Barrier	No Barrier
District Opposition	Moderate Barrier	No Barrier	No Barrier	Major Barrier

Major Barrier | Moderate Barrier | Minor Barrier | No Barrier

Facilities. With the exception of higher- educational institutions, appropriate and affordable facilities were a problem for every category of applicant.

Access to Capital and Start-Up Financing. Again, aside from institutions of higher education, applicants generally suffered from a shortage of financial reserves to buy and/or renovate school facilities; purchase equipment and supplies; and hire staff.

The Municipal Cap. The applicants with the greatest capacity to operate Massachusetts charter schools – large for-profit firms, institutions of higher education and community service organizations – were located in and/or concentrated on the state's urban areas. Yet Boston and Springfield, the largest

cities in the state, were restricted to five schools each, and no more than two schools could be established in any other municipality.

District Opposition. Institutions of higher education and community-service organizations proved able to fend for themselves in the political arena. Most other applicants were vulnerable to district opposition.

Untimely Government Rulings. The creation of a new regulatory regime for charter schools proved to be an unwieldy and inefficient process. At one time or another it led every applicant to feel considerable psychological stress and consternation. But delayed rulings, ambiguous rulings, and even unfavorable rulings were not the cause of any charter applicant's demise.

Recommendations to Legislators

Consider how much autonomy is necessary to improve student performance. Many potential charter school applicants will have great difficulty securing the resources necessary to exercise the broadest scope of autonomy responsibly. More potential charter school operators have the capacity to implement an educational program; fewer can also run a sizable business and operate a government agency.

Tailor the range of eligible charter applicants to the scope of autonomy granted in the statute. Once the legislature has determined the scope of autonomy it believes necessary to improve educational performance, it should make sure that the individuals and institutions qualified to exercise that autonomy are permitted to apply for charters.

Ensure that the staffs of chartering agencies possess expertise equal to the scope of autonomy permitted to charter schools. Chartering agencies need access to the expertise necessary to determine whether an applicant is competent to exercise the scope of autonomy granted by statute. The legislature should recognize that chartering agencies will need business and legal expertise, provide some funds for this expertise, and follow the agencies' efforts to obtain professional support.

Avoid permanent caps. Once a cap has been enacted, it may be politically difficult to lift. One solution is for the legislature to set an initial cap on the number of charter schools for some number of years, with an automatic expansion of the charter school program unless it is determined that the cap should not be lifted because the existing schools are failing.

Encourage state-sponsored universities, four-year colleges, and community colleges to establish charter schools targeted to the typical student in the district. Unfortunately, these highly qualified applicants tend to seek niche rather than mainstream markets. Legislatures should consider ways of enlisting state-sponsored institutions of higher education in the implementation of charter school statutes – perhaps even requiring some to open mainstream schools in failing school districts.

Address the facilities problem. Most applicant groups lack both appropriate school facilities and access to the financing necessary to acquire and renovate such facilities. Legislatures could give charter schools priority in the re-use of surplus buildings owned by the state, or require local school districts to give charter schools access to surplus school buildings. But these schemes depend on the serendipitous conjunction of buildings and applicants in the same jurisdiction. The financing of charter school facilities requires a systemic solution. Two options deserve serious investigation:

- A state-level charter school finance authority funded by tax-free bonds.

- Extending charter terms to at least 15 years or creating a statutory presumption of charter renewal (unless the school fails to meet educational, financial, and other standards), in order to make lending to charter schools more attractive to private sources of capital.

Address the expertise problem. To speed up the knowledge-building process, the legislature should establish a limited grant program for qualified educational institutions and non-partisan public policy organizations. The grants would be aimed at creating a cadre of professional experts and a body of non-academic literature readily accessible by professionals serving charter school clients.

Recommendations to Chartering Agencies

Learn from the experience of chartering agencies in other states.

The charter school systems of the states differ widely. Nevertheless, the first priority of the new chartering agency should be to examine the regulations of chartering agencies in states with analogous traditions of law and public education. Understanding the experience of one chartering agency will help another move more quickly along the learning curve.

Match staff capacity to the scope of autonomy offered charter schools.

Chartering agencies must be staffed to oversee the full range of charter school powers, which may include implementation of a unique educational program, command of the institution's business decisions, and control of governmental decision processes related to the operation of a public school. With regard to the educational program, the agency requires expertise in curriculum design and instructional strategies, an understanding of their appropriateness to different types of students, knowledge of student demographics in the jurisdictions where charter schools will operate, and a familiarity with the research literature documenting the success and failure of various school designs across the country. In states where charter school autonomy extends to business and governmental matters, agency staff must be able to make judgments about business plans; adherence to statutes governing the operation of public schools and public agencies; and the capacity of the management team to coordinate implementation of the business plan and the educational program.

Recommendations to Foundations

Invest in non-profit Technical Support Organizations (TSOs). Without the intervention of private foundations committed to implementation of the charter school statute in their state, applicants are likely to lack the assistance necessary to assure their success as public school operators. A large portion of the applicant pool, especially grassroots groups, requires help to make it through the difficult process of developing a proposal, submitting an application, negotiating a charter, starting a charter school, and operating the school responsibly.

Encourage the most qualified applicants to organize charter schools targeted to mainstream students. Offer institutions of higher education grants to plan and establish mainstream schools. Use grants to encourage partnerships between members of complementary applicant groups. A partnership between suburban parents and a school of education marries a ready student market and motivated parents with a college's resources and opportunities for research and teacher training.

Create a fund to train potentially promising applicants from grassroots groups and community service organizations. To increase the supply of capable charter school operators and assure that training grants are not wasted, foundations should consider establishing training funds administered by TSOs. The organizations would develop the training program and identify the most promising candidates.

Create a fund to provide down payment loans for the purchase and renovation of facilities by non-profit charter school operators. One of the most important reasons that applicants fail to qualify for loans is that they do not have enough money of their own to put into the proposed project. One potential solution is for foundations to create a fund to supply qualified applicants with the cash reserves necessary for them to apply for loans to purchase and renovate buildings. Applicants meeting the TSO's expectations of a qualified charter school operator would be granted long-term, low-interest loans for the down payment on a facility or for part of the costs of renovation.

Acknowledgments

This study could not have been written if Linda Brown and Jim Peyser had not generously offered to let me be a "fly on the wall" as they carried out the Pioneer Institute's plan to help implement the Massachusetts charter school statute. They never hid any of the problems they faced, any of the weaknesses of the many charter school applicants with whom they worked, or their own keen understandings of the politics of the charter school movement. I know they did not agree with all of my observations (nor would they agree with everything in this report). Nevertheless, they went out of their way to show me the very real problems as well as the very considerable strengths of the charter school system emerging in Massachusetts.

Without private sector involvement, charter schools cannot get started. I was fortunate to have the opportunity to discuss the problem with several key players, including Bill Edgerly, President of the Foundation for Partnerships; Barbara Beull, a partner in the law offices of Bloom & Buell; Chris Delorey of Marketing Associates Financial Services, Inc.; and Jim Warren of First Essex Bank.

This study also required that charter school applicants, and particularly the first fifteen approved for September 1995, open themselves up to scrutiny as they attempted to create their small, independent institutions of public education. Every one of them was embarked on a trip through uncharted waters. None really needed some analyst peering over their shoulders, second-guessing their decisions. Most accepted me without reservation and admitted their concerns as well as their sense of optimism that the enterprise would prove successful. I am very grateful to the many charter school founders who were willing to give me their time and insights.

Officials in the state government also gave me access and readily shared their own opinions on the early implementation of the statute. I am particularly indebted to Steven Wilson, formerly Governor Weld's education advisor; Lisa Blout and Virginia Grieman of the Executive Office of Education; Scott Hamilton, the Associate Commissioner in the Department of Education; and John Schneider of the Joint Committee on Education, Arts and the Humanities Committee.

Thanks also go to Robin Lake, Associate Director of the joint UW/RAND Center for Reinventing Public Education. Among other things, Robin conducted

research on charter applicants and charter holders in western Massachusetts, particularly on the Sabis and Hilltown charter schools. Robin has also kept track of the charter school movement in the Western states. Some sections of this report were written with her direct assistance; all were improved by her careful eye.

The report profited from a thoughtful formal review by Katherine Merseth, Executive Director of the Harvard Project on Schooling and Children. An informal, unsolicited review by Nancy Brigham of Rosenblum Brigham Associates in South Weymouth, Massachusetts, also proved extremely helpful.

Despite all this assistance, any errors or omissions are my responsibility.

1. Introduction and Overview

This report examines the "supply side" of education reform – the extent to which proposals to decentralize public education can be implemented by the individuals, groups, or institutions prepared to operate schools in the new system, or to provide supporting services. The charter school option is the focus of this study, and particularly the initial development of the system of charter schools during early implementation of the Massachusetts charter school statute. The study examines the structure of the charter school system created by the law, categorizes the different types of applicants and the schools they proposed to create, describes the support made available to charter applicants and charter holders by professionals and nonprofit institutions, and examines the role of government agencies. It assesses potential barriers to the supply of qualified charter school operators in Massachusetts and makes recommendations to legislators, chartering agencies, and foundations in Massachusetts and other states on how to increase the supply.

The Charter School Concept[1]

Charter school legislation offers private individuals and groups the right to manage individual public schools with some measure of autonomy from state and district regulation. In return, the charter holders accept accountability to a government agency for results. Charter school statutes allow the public schools currently managed by school districts to convert to charter status and/or provide a vehicle for the formation of entirely new public schools. The statutes generally permit parents and/or teachers to hold charters, but often extend the privilege to nonprofit institutions, colleges and universities, and sometimes even to for-profit businesses. In so doing, they open the delivery of public education services to the private sector and make new sources of human and material resources available to public schools.

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[1] *See*, Marc Dean Millot, *What Are Charter Schools?: An Introduction to the Concept and the Statutes*, RAND/University of Washington Program for Re-Inventing Public Education (Seattle), April 1995; *and* Marc Dean Millot, *Autonomy Accountability, and the Values of Public Education*, UW/RAND Program on Reinventing Public Education, University of Washington (Seattle), September, 1996.

On the autonomy side of the bargain, charter holders control decisions the legislature has determined to be essential to the success of any public school's educational program. This always includes control over implementation of the curriculum and instructional strategies contained in the school's charter. It may also include exemptions from the state education code and the public sector collective bargaining law. Autonomy can extend to management of the human and financial resources allocated to the school. In this case, charter schools are financed on something like the average cost of educating a student in the district where the school is located, and the payments are transferred from the district to the charter school. Charter holders may use these funds to contract for goods and services from private providers, often including education services from private businesses. Autonomy also may include command of the decision processes of schools in their role as government agencies – including in such areas as admissions, discipline, and procurement.

On the accountability side of the bargain, the charter under which the school operates must be approved by local and/or state education authorities, typically for a term of three to five years. At a minimum, the law establishes that the charter holder will be held responsible to the chartering agency for its educational performance. If autonomy extends to economic and public agency decisions, the charter holder also will be accountable for sound financial management and for fair and open decision processes. In keeping with the values of public education, charter schools may not charge tuition or teach religion and are generally subject to open enrollment requirements. If a charter holder fails to meet the terms of its charter or the charter school law, the chartering agency may revoke the charter and close the school. Schools that spend more than their revenues or fail to attract enough students go out of business.

Minnesota passed the first charter school statute in 1991; it was followed by California in 1992; Colorado, Georgia, Massachusetts, Michigan, Missouri, New Mexico, and Wisconsin in 1993; and Arizona and Hawaii in 1994. Today, at least 25 states and the District of Columbia have charter school legislation on the books. Other states are considering charter school statutes, and a lively national debate over the ideal features of a charter school system is underway. The statutes, bills, and models vary widely in the extent of autonomy granted to charter schools, the specific areas and measures of accountability, the individuals and groups entitled to hold charters, the government agencies empowered to grant charters, the chartering process, and the details of school financing. The best approach remains unclear, and it is likely that the charter concept will remain high on the agenda for education reform.

"Supply Side" Issues

Many public school reformers – particularly the legislators and governors who promote and pass the new laws – have high hopes for charter schools. In their view, the concept offers a way for educators to cut through excessive regulation and focus on student performance. It protects school site personnel from micromanagement and prevents them from blaming poor performance on state or central office bureaucrats or union rules. It allows for school choice without sacrificing the values of public education. It gives the public school system access to private sector resources.

To many advocates the most important feature of charter school legislation is that it brings real competition to public education by creating a market for public schools. Reformers hope that if high quality charter schools can be established, the public schools in the traditional system of centrally controlled school districts will either improve their performance or give way to a new system of charter schools. But for the new statutes to have this effect, there must be enough charter schools, serving enough students, to present a real economic threat to traditional schools.

Whatever balance of autonomy and accountability is required to support higher levels of educational performance, the future of the charter school concept depends on an adequate supply of potential charter holders qualified to operate the new schools. Individuals and groups interested in applying for charters must have attractive and promising educational programs, expertise equal to the scope of autonomy offered by the statute, and adequate financing. Many qualified applicants are necessary if the charter school option is to transform a public school system. Dozens may be required for a large urban district, hundreds in a state, and thousands to change public education across the nation.

The creation of what are more or less independent public schools is a daunting task. Charter school applicants must develop an integrated plan to form and operate the independent school. Potential charter holders must assemble a team including not only educators and teachers, but also – depending on the extent of autonomy offered by statute – experts in accounting, administration, contracting, business operations, facilities management, human resources, financial planning, law, and many other areas. They must make preliminary efforts to hire permanent staff and perhaps contract for certain services. They must build a coalition of support among politicians, government officials, teachers, parents, and members of the business community. They must negotiate the terms of their charter with a government agency. If they receive a charter, they must start up the new school.

Assessments of Early Implementation

Governors, legislators, state and national education officials, public policy analysts, and charter school advocates need assessments of the early implementation of charter school legislation. Unfortunately, it is difficult to judge the educational success of charter schools. In most cases, specific measurable criteria of educational success have not been explicitly defined in charter school statutes, or by chartering agencies, nor have such criteria been described in many school charters. What these criteria should be, who should define them, and the processes by which they should be defined remain important issues in the continuing debate over the charter school concept.[2] Moreover, most charter schools have not been in operation long enough for researchers to make credible assessments of their educational performance, let alone generalized findings of the educational efficacy of a given charter school statute or of the whole charter school concept.

Current analyses of charter statute implementation can identify problems related to the design, approval, and start-up of individual charter schools that may influence educational performance. In so doing, such studies can begin to examine issues related to the supply of qualified charter operators: Who is interested in operating a charter school? What are the applicants' motivations, and what kinds of schools do they propose? What expertise, experience and capabilities are required to operate a charter school under a given statute? Which individuals and groups have those capacities? Where do charter applicants turn for capabilities they need to acquire? What is the nature and quality of that external support? What is the role of nonprofit and for-profit organizations? How does the action of government agencies affect the supply of qualified charter school operators? What does a system of charter schools look like?

In states with charter school legislation, answers to these questions could inform decisions to amend existing legislation before the charter school program grows. For states without charter school statutes, early reports on the supply side of implementation will help legislators to develop new statutory approaches to charter schools. And as our understanding of charter schools' education performance improves, legislators will obtain a better appreciation of the

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[2] For a discussion of this issue and of the broader relationship between autonomy and accountability described in charter school statutes*see, Autonomy Accountability, and the Values of Public Education*. The influence of measures to assure educational accountability on autonomy in the area of educational programming can be found at pp. 93-94.

capabilities required to obtain high performance in the delivery of public education services and of the supply of those capabilities in the public and private sectors.

A Study of the Massachusetts Statute

Although charter school operations are funded with public money, the charter school concept relies heavily on private resources. Private individuals and groups apply for charters. Private individuals and organizations provide the expertise required to develop a credible school proposal and most of the human and material capital necessary for start-up. Management of charter schools is exercised by private individuals carrying out a public trust. Support services –ranging from accounting and law to special education administration to transportation and food service – are provided by private contract. The private sector supplies the schools of the charter school system.

When a charter school law is passed by a state legislature, none of this structure exists. The delivery of K-12 public education services is monopolized by local school boards. The private sector is involved at the periphery, providing some supporting goods and services, financial grants for educational programs, and *pro bono* involvement in various advisory and volunteer efforts. Whatever latent resources exist in the private sector to operate public schools must be organized from scratch. Government may take actions that help or hinder the development of the largely private system of public charter schools, but the system is created by private actions.

This study is an exploratory effort aimed at describing the system that develops after the passage of a charter school law. It covers the period following passage of the legislation in 1993 through approval of the first 15 charter schools by the Secretary of Education in 1994 until the first day of school in September 1995. The study does not discuss the issue of educational performance. It focuses on the supply side questions discussed above, including the objectives and capabilities of charter applicants; the availability and quality of material and technical support for charter applicants and holders provided by private individuals and groups; and the role of government in the supply of qualified charter school operators. The study is based on observations of meetings held for charter applicants and charter holders; discussions with government officials, applicants and holders, and individuals providing various forms of support; and reviews of materials produced by government agencies, applicants and holders, and newspapers.

Because charter schools are a new phenomenon and the enabling legislation varies by state, Section Two of the report begins with a discussion of how the charter school statutes relate to other legislative approaches to public school reform, describes the principal types of charter school laws, and outlines the Massachusetts statute. Section Three classifies the first individuals and entities that applied for charters in Massachusetts, explains their motivations and the kinds of schools they proposed, and analyzes the capacities that each type of applicant brought to the application process. It then reviews the extent to which charter school applicants and charter holders could draw upon private sources of technical support, professional expertise, and finance to augment their own capabilities. Section Four assesses the extent to which state and local government influenced the supply of applicants. Based on the findings of this analysis, Section Five summarizes the contribution of the different applicant types to the charter school system; discusses potential barriers to the supply of qualified operators; and provides recommendations to legislatures, chartering agencies and foundations on legislation, regulation, and actions to improve and increase the supply of qualified charter school operators. The sources and methods on which findings are based are discussed in an appendix at the end of the report.

2. The Charter School Concept

This section explains how the charter school concept fits with other legislative approaches to public school reform, describes the principal types of charter school statutes, and outlines the Massachusetts statute.[3]

The Impetus for Reform – Dissatisfaction with central control and the lack of accountability

Proposals for school reform are motivated by dissatisfaction with student achievement and a sense that the current system of public education is failing. One critique that has gained acceptance among many experts and legislators lays much of the blame for inadequate performance on the inflexibility of the traditional system of school districts created by law to meet the state's obligation to provide an education to its children. In brief, this critique argues that the traditional structure unduly constrains innovation in individual public schools. [4]

As a rule, the separate school buildings and the staffs housed within them have no independent legal status. They are merely administrative units created by the district as a convenient means of reaching students who live within the jurisdiction. Laboring under the central direction of state and district education agencies and subject to the constraints of state civil-service regulations and, very often, district-wide collective bargaining agreements, individual schools find it extremely difficult to tailor their programs to the particular needs of their students and communities.

The inflexibility that follows from central control also leaves parents with limited options as to the type of public school they may choose to send their children to. Given their exclusive right to the tax dollars raised to educate the vast majority of children, districts lack a powerful incentive to change. And because individual public schools lack autonomy, it is arguably unreasonable to hold them accountable for educational performance.

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[3] Parts of this section appeared in *What Are Charter Schools?*, pp. 2-7.

[4] *See* Eric A. Hanushek, *Making Schools Work: Improving Performance and Controlling Costs*, The Brookings Institution (Washington, D.C.), 1994.

The Private School Model

Dissatisfaction with the traditional public school system leads naturally to comparisons with private schools. Where individual public schools are merely administrative units of a larger school district, private schools are independent legal entities. The decisions essential to the success of these schools are controlled by the schools, in particular by their boards of trustees, headmasters, and management teams. These leaders determine the educational program the schools will offer and the kinds of students they will serve, control the resources consumed at the site to support the schools' activities, contract for goods and services, and have the final say in personnel matters. Private schools are guaranteed no particular level of funding, but are free to seek private donations, charge tuition and to attract as many students as they can.

The autonomy provided by the marketplace has powerful effects on the scope and nature of private education. Private donors and parents with adequate resources can choose from a wide variety of schools with distinctive educational programs. The competition for tuition-paying students and donations, along with the prospect of possibly going out of business, provides private schools with strong incentives to satisfy their customers, continuously improve their educational offerings, and make wise use of their resources. Schools able to master the challenge thrive, those that do not close their doors.

By design – and principally because they do not rely on public funding and/or they are affiliated with religious institutions – state legislatures have insulated private schools from the type of supervision exercised over public schools. Consequently, private schools are not highly accountable to government, the taxpayers, or the public at large. They are generally subject to a very limited set of regulations. Private schools are not prohibited from teaching religion, limiting admissions to particular kinds of students, or charging tuition. And, unlike public school districts, independent private schools are under no special obligation to government, the taxpayer, or the public at large for their level of educational performance, sound financial management, or fair and equitable decision processes.

Proposals to Reform Public Education

Proposals to Increase Autonomy

One set of reform proposals follows directly from the private school model. A voucher system would allow private schools to compete with school districts for

a state's public school budget.[5] Home schooling places the responsibility for public education directly in the hands of parents. These proposals substitute direct government control with market mechanisms (private ownership of schools and parental choice of schools) to assure that individual schools are accountable for educational performance.

But markets are not a perfect means of providing for public education needs. Parents do not have the same incentives to seek cost-effective services as typical consumers. They are spending other peoples' money to procure public schooling for their children. Moreover, the payments come from taxes raised by the general public, which has an independent interest in the success of public schooling and some right to see that its funds are well spent. While a parent's obligation to his or her child legally ends when the child reaches majority, a range of social welfare entitlement programs creates taxpayer obligations that continue through adulthood. The public, acting through its elected officials and government institutions, has a responsibility to see that children receive an education adequate to the future demands of society and work, that the schools are run efficiently, and that the schools respect the civil rights of parents, students, and employees.

Parents have legitimate interests that can nevertheless conflict with those of the public at large. A mix of factors affects parental choice. In addition to educational quality, parents are likely to consider such factors as a school's location, the attendance of siblings and the children of family friends, the school's connection with the family's ethnic or religious community, the school's extended day program that conforms with parents' workdays, and the school's athletic programs. These are justifiable considerations, but the public interest is overriding, and parental choice alone cannot assure that the public interest is met.

Proposals to Increase Accountability

A second set of reform proposals addresses the state's responsibility to assure an adequate education by increasing accountability for educational performance at every level of the public school system. More stringent requirements for teacher certification, performance-based superintendent contracts, state standards for student performance in key subjects, the development of more authentic student assessments, school "report cards," and comparative reports of overall student

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[5] John E. Chubb and Terry M. Moe, *Politics, Markets and America's Schools*, The Brookings Institution (Washington, D.C.), 1990.

performance in district schools are features of this approach. Maryland's School Performance Program legislation permits the state to take over a school failing to meet minimal performance standards.[6] These proposals set criteria for evaluation and penalties for failure, but do not necessarily improve the ability of individual schools to take actions to assure a successful educational program. The schools remain subject to district and state regulations, civil service rules, and union contracts. Most important, the district retains its monopoly on public schooling and remains the key decision-maker on school-level operations.

Proposals for Site-Based Management

A third strand of systemic reform moves more of the responsibility and authority for education policy from the state and district to the individual school. Statutes permitting site-based management and shared decision-making, such as Washington state's "pilot programs in school based management"[7] and its six-year legislative experiment with "21st Century Schools"[8] allow parents, teachers, and other school workers to participate with the principal in the development of a proposed school improvement plan, subject to approval by the district authorities. The school site team is given a measure of freedom from the district's direct control and must satisfy the local school board with its subsequent performance. The improvement plan generally covers a relatively narrow range of education policy, typically the development of an instructional program consistent with the district's curriculum.

The school board must approve the plan, may subsequently decide against it, and is under no legal obligation to carry it out. The site team may or may not oversee implementation of the plan, but in any case the team does not control the school. Its authority is constrained by the principal, the district's central office, and the school board's responsibility to approve the team's actions. Moreover, without specific waivers from the state, district, or union, the team must act within the confines of state laws and regulations, district policy, or union contracts.

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[6] See Section 13A.01 of Code of Maryland Regulations.

[7] Revised Code of Wahington 28A.240.

[8] Revised Code of Washington 28A.630.100-295. By statute, the program ended in June, 1994.

Charter Schools Statutes

The "Basic Bargain"

The charter school concept combines proposals to increase school autonomy with efforts to create high levels of public school accountability, and can be seen as an extension of site-based management. The "basic bargain" embodied in charter school legislation is "autonomy for accountability." Charter school statutes offer private persons the opportunity to control decisions essential to the success of an individual public school's educational program, embodied in a formal agreement approved by an education agency of the state and made effective for some number of years. In return, charter holders accept an obligation to improve student performance and to remain accountable to state government as a public institution carrying out a public trust and a state constitutional responsibility. The legally binding agreement between the school and the education agency establishing this relationship is widely termed a "charter."

Most charter schools – particularly those whose autonomy includes financial management – are also accountable to market forces. Their funding is based on the number of students attending the school. Each student represents some, and perhaps all, of the average per-pupil expenditure on public school operations from federal, state, and local sources in the district where the student resides. If they fail to attract enough students, or prove unable to keep their costs in line with revenues, charter schools go out of business.

As under the voucher and home school proposals, autonomous charter schools offer alternatives to the traditional public schools operated by districts that increase choice and introduce competition for tax revenues into the public school system. But charter schools are not private schools receiving tax dollars. They are public schools, directly responsible to agencies of state government meeting certain performance requirements and carrying out the educational responsibilities of state government.

Consistent with efforts to improve accountability for student outcomes, charter school applicants must justify their proposed educational program to education agencies of the state before receiving their charter. The schools operated by charter holders must meet educational standards established in the statute or the charter. But unlike statutes aimed only at accountability, charter school laws give school operators some measure of control over the decisions necessary to assure the success of their program.

As with site-based management and shared decision-making, decisions at charter schools are made by people with a stake in the success of their particular school. But charter school statutes permit individuals and organizations to establish entirely new schools and offer greater autonomy than site-based management. Unless there is gross negligence or a failure to meet educational performance requirements, charter holders have an enforceable right to manage their school according to terms of their charter.

No one knows the balance of autonomy and accountability most likely to create public schools that improve student outcomes. Charter school legislation is based on the proposition that at a minimum, individual schools must have a right to control some decisions important to the success of the educational program for some number of years, be subject to market forces, and remain responsible to government authorities. Each state has elaborated on this theme in its own way; no two charter school statutes are exactly alike. A review of these statutes suggests that the states have developed three basic types of charter schools: "super site-based management," "contract schools," and "independent public schools."

Types of Charter Schools

Super Site-Based Management

The simplest arrangement is the modest extension of site-based management offered by such states as New Mexico and Georgia. This approach allows teachers and parents to propose and implement an educational program at an existing school with district and perhaps state approval – in other words, to convert their school to charter status. The scope of autonomy offered by this approach is generally confined to decisions regarding curriculum and instructional strategies. Although they have the right to carry on with their educational program relatively free from district intervention for the term of their charter, charter schools operated under the "super site-based management" option have no legal significance independent of the school district. The school remains an administrative unit of the district, subject to school board decisions on such critical matters as personnel, budgeting, and collective bargaining.

Contract Schools

Under the "contract" option, a broad range of individuals is eligible to propose the establishment of entirely new charter schools within the district. In addition to curriculum and instruction, the operators of these schools control more decisions regarding budget and personnel. Nevertheless, these schools remain

part of the school district. Prospective operators apply to the local school boards for their charter, and charter holders are accountable to the board to meet the charter's terms. And because the local board is granted substantial discretion in its decision to grant charters, the nature and extent of alternative schooling in the district will be largely a matter of board policy. Something like this approach describes most charter school legislation.

Independent Public Schools

The first two options assume that local school boards will exercise initiative and permit, and perhaps even solicit, the creation of new autonomous schools to compete with traditional schools directly managed by the district. The "independent" charter school option does not rely on local school boards to promote the charter school concept. It places the initiative for charter school formation with members of the community, because experience in other states indicates that local boards tend to see charter schools as a threat rather than a new tool for managing their districts.

Like the contract school, the independent public school can be operated by a wide variety of individuals and controls a broad range of important decisions. But independent public schools are chartered by state education agencies with no ties to local school districts that might conflict with the mission of implementing the charter school statute. Indeed, changing the education system by chartering schools is an important part of their mission and may be their sole mission. Independent public schools are intended to compete with traditional schools managed by the school districts, and this competition is designed to pressure districts to improve the quality of their educational services. Massachusetts and Arizona provide the best examples of this approach.

The Massachusetts Charter School Statute[9]

The Massachusetts charter school statute enacted in 1993 created independent public schools. Under the original law, charter schools were established by the state Secretary of Education as alternatives to the district-run public schools, under the terms of a renewable charter valid for five years. (See Fig. 2.1 and Table 2.1.) (Following reorganization of state education agencies in 1996, oversight of the charter schools program was transferred to a successor agency.) Charter schools compete directly with the districts for public school students.

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[9]See, Mass. Ann. Laws ch. 71, sec. 89, Lawyers Cooperative, 1993. The text of the law can be found at Appendix B.

Their operations are funded on the basis of 100 percent of the average cost of educating students in the district (not including the cost of constructing and servicing the debt on facilities) with state and local funds. Supplemental financing for education of special needs, economically disadvantaged, and bilingual students attending a charter school is handled in a similar fashion. In the original statute, charter school payments were to be made by the town or city where the school is located. (Under an amendment passed in 1995, the state treasurer now deducts the charter school payment from the state's payment to the school district and transfers it directly to the charter school.) No more than 25 charter schools are permitted by the statute, with no more than five in the major urban areas of Boston and Springfield, and no more than two in any other city or town.

The statute challenges private entities to accept the full range of authorities and responsibilities involved in providing public education. Under the original law, charter holders were accountable to the Secretary of Education – an appointed official in the Governor's cabinet and head of the Executive Office of Education (EOE) – for compliance with the terms of their charter and the charter school statute. (Under the reorganization of state education agencies, oversight was assumed by an Associate Commissioner for Charter Schools.) As public schools, charter schools are also accountable to the state's Department of Education – an independent state agency – for most of the state education code, and must refrain from charging tuition, discriminating in admissions, and teaching religion. And as independent public agencies, Massachusetts charter schools must adhere to state laws governing open meetings, freedom of information, public sector collective bargaining, and government procurement, as well as federal Constitutional law protecting individual rights.

Massachusetts charter schools are also accountable to the market. Where public schools operated by school districts can rely on the central office to provide a student body as well as the expertise necessary to run a school system, charter schools must meet these needs on their own. Unlike school districts that can tap state and local tax revenues to support the purchase of equipment and the construction of new facilities, charter schools must raise their start-up and capital finances from private sources and repay those loans out of their operating revenues. Their financial viability depends entirely on their capacity to attract students and manage resources wisely.

Fig. 2.1. The Legislative Structure of Charter Schools in Massachusetts

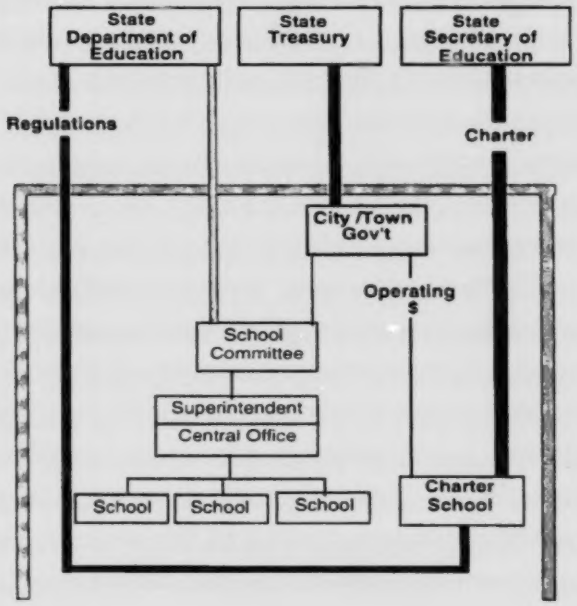

Table 2.1.

Charter Schools v. District Schools

	Charter Schools	District Schools
Decision Making: **Education Program** **Business** **Government**	Controlled by school within terms of charter and most of state code	School council proposals approved by School Board if consistent with district policy, education code and teachers' contract
Expertise	School's responsibility	Provided by district
Student Enrollment	School's responsibility	Provided by district
Finance		
Start Up	School's Responsibility	Provided by district
Operating	Paid by state (through district) based on enrollment	Provided by district
Capital	School's responsibility	Provided by district

3. The Applicant Pool and Private Sources of Support in Massachusetts

Implementation of the Massachusetts charter school statute provided an excellent opportunity to examine the supply side of education reform efforts designed to decentralize public school systems. First, Massachusetts charter schools have a very broad scope of autonomy. They are distinct legal entities with full control over the schools' educational program, personnel and business functions, and decision processes. They are not under the authority or supervision of local school districts, but are subject to most of the same rules and regulations. It takes a broad array of capabilities to exercise this autonomy responsibly. Second, the Massachusetts statute creates a very large pool of potential applicants. Virtually any group or organization – public or private – may be approved to operate a charter school.

This section classifies the different groups that applied for charters, explains their motivations and the kinds of schools they proposed, and analyzes their capacity to operate the independent public schools authorized by the Massachusetts statute. It then reviews the extent to which charter school applicants and holders could draw upon private sources of technical support, professional expertise, facilities, and finance to augment their innate capacities.

The Applicant Pool

The first 65 charter school applicants in Massachusetts, leading to the 15 schools that opened their doors to students in September 1995, comprised a wide range of potential operators. Applicants included a small number of national and local private businesses engaged in education, a somewhat larger number of higher education and community service organizations, and large numbers of grassroots groups of educators, parents, and activist citizens. As shown in Tables 3.1 and 3.2, a review of the applicants and their applications reveals differences in the motivations of each category, in the size and locations of the schools they proposed, and in the types of students they hoped to serve.

Table 3.1.
Applicants' Motivations

Type	Essential Motivation
Big Business	Demonstrate effectiveness of school design to national market
Small Business	Pursue entrepreneurial opportunity in local market
Higher Education	Fund Existing school program with new source of revenues Create "laboratory school" for research, development, and training
Community Service Organization	Extend mission by integrating education with existing programs
Educator	Create a school where members can pursue their vision of public education
Parent	Create a school where members can send their children and pursue their vision of education
Citizen	Change the local public school system by creating a school based on their vision of public education

Table 3.2.
Schools Proposed by Applicants

Applicant Type	Big Business	Small Business	Higher Ed.	Community Service	Educator	Parent	Citizen
Location	Urban	Suburban	Urban	Urban	Urban	Urban Suburban Rural	
Target Student	Mainstream	Mainstream	Mainstream	Other	Mainstream Other	Mainstream	
Grades	K-12	K-12	8-12	K-8 9-12	5-8 K-12	K-8	
Size Yr 1	avg. 447	10-150	avg. 195	avg. 144	avg.143	avg.120	
Size Yr 5	avg. 959	40-400	avg. 195	avg. 318	avg.225	avg. 205	

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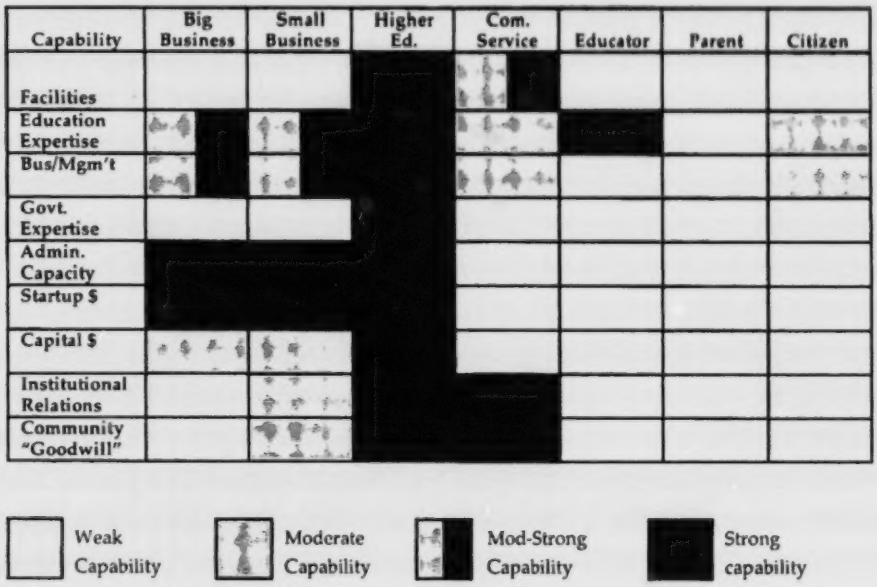
Both market forces and responsible exercise of the autonomy offered by the Massachusetts statute demand that charter holders possess the widest range of capabilities. They must have access to facilities. They need expertise in educational programs and school administration – including special education, business management, and government operations. They must have the administrative capacity to weave this expertise into a viable proposal, and later a well-run school. They must have financial backing after they receive their charters but before they open their doors, in order to hire staff, buy equipment, purchase educational materials, and to lease or purchase and then renovate real estate. They need strong relationships with community institutions, including local banks, newspapers, and government. They need the community's good will. As shown in Table 3.3., the applicants varied in these capabilities.

Table 3.3.
The Capabilities of Applicant Groups



Big Business

Three large for-profit education management organizations from the emerging "education industry," including the Edison Project and Sabis International,

applied for charters to open schools in September of 1995. These "big business" entities, big by the standards of the charter school movement, are not headquartered in Massachusetts, and hope to establish large numbers of high performing, fully equipped, and up-to-date public schools on a national basis. The Massachusetts statute offered a chance to prove the efficacy of their school designs to school officials, educators, parents, and investors across the country. These firms were drawn to urban areas and were interested in opening K through 12 schools that would grow to enrollments of over one thousand students. They planned to draw mainstream students in the district where the schools would be located.

Like most charter school applicants, big businesses lacked their own school buildings. They may have had the capital necessary to purchase such facilities or to engage in extensive renovations of leased facilities, and they did plan to provide their schools with substantial infusions of equipment and technology. However, spending money on buildings would undermine their capacity to expand elsewhere and so was not part of their business planning.

Given the relatively large size of their proposed schools and their desire for high quality facilities, big businesses generally sought an existing school building, and thus the cooperation of local school boards. Coming from out of state they also initially lacked expertise in the operations of Massachusetts state and local government agencies, strong relations with local institutions, and the goodwill of local communities. As compared to other applicant groups, big businesses enjoyed high levels of expertise in educational programs, school administration, business and management. However, some of these organizations – because they were new businesses with relatively untested programs and limited experience in the management of schools – had start-up problems of their own. Nevertheless, they had the administrative capacity to put together viable proposals and start-up budgets sufficient to hire necessary local expertise.

Big business also had the ability to build strategic alliances with local governments and community leaders. Indeed both of the charter schools opened by this category of applicant opened in the fall of 1995 were the result of such partnerships. One, the Renaissance School, an elementary school in Boston, arose from an alliance of The Edison Project and a grassroots citizens group. The second, the result of a partnership between Sabis International and the city, superintendent, and school board of Springfield, sought to convert an existing elementary school operated by the local school district to charter status.

Small Business

Four applicants were small businesses, built around individual entrepreneurs with prior experience serving public school systems – providing local school districts with such services as the operation of community youth programs and grant-writing support. They saw an opportunity to shift from supporting roles to supplying education services themselves. Most members of this group proposed to establish their schools in the suburban areas where they were located and did business. Like the larger businesses, this group intended to establish schools encompassing grades K through 12, made up of the mainstream students in the district where the schools would be located. Unlike big business, this group was focused on local markets. They did not hope to establish a more widespread network. They proposed schools opening with as few as ten and as many as 150 students, growing to enrollments of between 40 and 400 students.

Members of the small business group lacked facilities and significant capital finance, but they were prepared to invest their own resources. Although they had experience working with local school districts, they had not run schools and tended to have no special knowledge of the duties of public agencies in Massachusetts. And while they had roots in the communities where they hoped to locate their schools, the goodwill and institutional relationships they had built working with local school districts tended to deteriorate after they decided to compete with those districts. However, their administrative capacity, their level of expertise in educational programs, school administration, business and management, and their start-up budgets were roughly equal to the requirements of the small schools they hoped to start.

One of the charter schools to open its doors in September 1995, was formed by the efforts of a small business firm: Dovetail Associates, the motivating force behind the South Shore Charter School in Hull.

Higher Education

Applicants from higher education, including universities, colleges, and community colleges, tended to be located in urban areas, particularly Boston. Six applicants comprised this group. They were attracted to the charter school concept for a couple of reasons. They hoped to convert existing programs for special categories of public school students (generally "at-risk" groups, including potential dropouts) in order to increase the funding of that program; or wished to extend their educational mission by creating laboratory schools (often at the elementary or middle school level) to train teachers, develop curriculum, or

study the learning process. They generally proposed schools with initial and ultimate enrollments in the area of 200 students, focused on the populations they already served and the communities were their facilities were located, and showed no sign of interest in long-term expansion.

Applicants in this group appeared relatively strong in every capability required of a Massachusetts charter school. They had school facilities and access to funds for renovation and start-up costs. They had strong expertise in education, school administration, business management, and (particularly in the case of state and community colleges) government operations. They also had strong ties to the businesses, governments, and education agencies in the regions in which they were located, along with a substantial reservoir of community good will.

One of the charter schools opened in 1995 was formed by an institution of higher education. Middlesex Community College, a state-funded institution, converted a high school program for at-risk students in Lowell into the Lowell Middlesex Academy.

Community Service Organizations

Thirteen applicants were community service organizations, including groups concerned with the arts, at-risk teenagers, bilingual, and low-income populations. These applicants tended to be concentrated in Boston and other urban areas. They were attracted to the charter school concept as a way of extending their missions by integrating education with their existing performing arts, health, and social service programs. They tended to propose schools serving either K-8 or 9-12, targeted to the particular local populations. On average their proposed enrollments would grow from around 150 students to over three hundred.

Although members of this group generally lacked their own capital, they sometimes had access to facilities. Like the small businesses discussed above, they tended to have no special competitive advantages in knowledge of the duties of public agencies in Massachusetts, although those involved with social services dealt with state and local agencies on a regular basis and their staffs understood the bureaucratic culture. Their expertise in education and business management varied, but they had the administrative capacity to pull together a credible proposal and some of the resources necessary for start-up.

The greatest strength of these organizations was their relationships with local institutions and the goodwill they enjoyed in the community – growing out of their history of business operations and programmatic success. Because their

boards of directors were drawn from the local elite, community service organizations could rely on the support of the local institutions influenced by those members. With this support they were in a good position to acquire capabilities they lacked.

Community service organizations involved in social services were responsible for four of the first charter schools opened in Massachusetts. Two were located in Boston: Neighborhood House, a primary school; and Youth Build, a trades-oriented high school for at-risk youth. The other two were located in Lawrence: Lawrence Family Development and Lawrence Community Day, both elementary schools.

Grassroots Groups

The great bulk of applicants was "grassroots groups" of citizens, parents, and educators. Thirty-two such groups applied to open charter schools in September 1995. They came from urban, suburban, and rural jurisdictions across the state, and were virtually the only source of applicants outside of the state's urban areas. The ultimate size of schools proposed by grassroots applicants was over 200 students, but varied depending on the size of the community the school would serve. As a rule, grassroots applicants proposed schools for any and all students in their communities, rather than for any particular type of student.

While grassroots applicants could be any combination of parents and other citizens, teachers, and other educators, and are hard to categorize, the coalitions submitting applications tended to be dominated by one of these groups.

- Those led by local citizens were on a very clear mission to change the system of local public education. Citizen coalitions often included parents and sometimes teachers, but the leaders of these groups had some history of political activism in their communities – for example, as the minority on their local school committee or in their annual town meeting. They hoped to change the local public school system by offering the alternative vision of public education they had failed to realize through traditional channels. For this group, the charter school option was a way to get out from under the tyranny of the majority.

- Grassroots groups led by educators and parents may have had an interest in political change, but their basic motivations were more immediate and personal. They sought "a place of their own." Groups led by teachers and other educators sought a school where they could pursue their own visions of education. Groups led by parents desired a special place to send their own children – a place they had not found in the schools operated by their local district.

Although they may have hoped to draw students from neighboring towns, in no case did grassroots groups show signs of plans to extend their enterprise beyond their local communities. They also expressed little interest in substantially

increasing enrollments at their proposed schools, although the parent-led groups clearly have incentives to add grades as their children grow older.

As a whole, most of these groups were limited in most of the capabilities required of Massachusetts charter schools. They lacked facilities and capital. They were more likely than not to lack significant expertise in business management, the duties of government agencies, and – unless they were led by educators – educational programs and school administration. Their general administrative capacity was minimal. (Grassroots applicants were sometimes referred to as "kitchen table teams" because most of the work was done around and left on one.) Their start-up resources consisted largely of their members' "sweat equity."

Because the grassroots groups had no institutional history prior to the decision to pursue a charter when they submitted their applications to the Secretary, they had at best tentative institutional relationships. While individuals in the group may have had connections to local business, banking, government, and the local school system, these personal ties did not necessarily translate into institutional support for the application.

Moreover, grassroots applicants were more likely than other types of applicants to have questionable standing in the community. The proposals for charter schools serving mainstream students made by grassroots groups were often characterized by local media and local school officials as attacks on the local school system – perhaps the most important local institution in many Massachusetts communities. Unlike local higher education or community service institutions, the grassroots applicants presenting this indictment of the status quo had no counterbalancing reservoir of goodwill based on past good works. Applicants were particularly likely to be cast in a negative light when the attack came from a group consisting of individuals with a well-known history of dissent.

Despite their lack of many of the capabilities necessary to operate the independent public schools authorized by the Massachusetts state, grassroots applicants made important resources available to public education.

- They brought the values and interests of the public school system's most important constituencies to the management of charter schools. In every other case, teachers, parents, and citizens would exercise their influence indirectly, as they do with the schools run by local school districts. In the case of charter schools run by business, higher education, and community service organizations, teachers would negotiate salaries and working conditions with the board of trustees; parents' influence would ultimately rest on their right to transfer to another school; and the concerned public would have the right to write letters to

the editor of the local newspaper. In charter schools proposed by grassroots schools, one or more of these constituencies would control the school outright.

• As discussed above, they were virtually the only source of applicants in suburban and rural jurisdictions. Without grassroots applicants, many students in these areas would have no public school alternative to the local school district.

• Even in urban areas, grassroots applicants were important to expanding the public school choices available to most students. Business applicants proposed schools for mainstream students, but were prepared to operate only a few (albeit large) schools. Higher education and community service organizations proposed small schools serving specialized markets. Grassroots groups invariably proposed schools designed for all students.

• Unlike other applicants, the primary motivation of most grassroots groups was the school itself. Big business sought to prove their design would work so they could expand the number of schools they run and turn a profit. Small business wanted to pursue a new entrepreneurial opportunity. Higher education and community service organizations were interested in adding programs consistent with their basic missions. None of these motivations are inconsistent with the operation of a high quality charter school, but the school was a means to some other end. With the exception of citizen groups with a broader political agenda, only the grassroots groups had the charter school as their sole focus; the school was not a means to another end.

In many respects, the seven grassroots groups that received charters and opened their doors in the fall of 1995 were exceptions to the general rule that this type of applicant lacked capacity. Each started with some of the required capabilities – although most experienced more serious problems than charter holders in the other applicant categories. Grassroots charter holders overcame their particular weaknesses because 1) their leaders had enormous energy and an ability to motivate others; and 2) their members could tap important resources under their personal control, including funds, contacts, and expertise.

Only one grassroots school – City on a Hill, a high school in Boston – was started by educators – in this case, two public school teachers. Four were founded by parent groups: Franklin Academy, a middle school in Franklin; Cape Cod Charter, a middle school serving several towns on the Cape; Parker School, a middle school located on the former U.S. Army base at Fort Devins; and Hilltown, an elementary school in Williamsburg. Two were founded by citizens groups, one an elementary school in Marblehead, and the Atlantis elementary school in Fall River. The Renaissance School in Boston, mentioned in the discussion of big business, was the result of a strategic alliance between a citizen's group and Edison.

Sources of Technical Assistance, Professional Expertise, Facilities, and Finance

Because the overwhelming majority of applicants lacked at least some of the capabilities necessary to operate a charter school, they sought to improve their positions with outside assistance. The Secretary of Education's charter school staff in the Executive Office of Education (EOE) provided applicants with information on the legal status of charter schools, a timetable of the review process, and the types of data the Secretary expected to see presented in applications. But while EOE had an obligation to clarify the "rules of the game" for charter applicants, it would have been inappropriate for the agency that reviews and approves charter applications to provide applicants with substantive support. To supplement their own capacities, charter school applicants turned to technical assistance organizations and professional experts, and considered organizing an association of charter schools. To obtain facilities and capital, most applicants turned to owners of suitable private property and to private sources of finance.

The Non-profit Technical Assistance Organization – The Pioneer Institute

To a greater or lesser extent all categories of applicants, and especially the 15 charter holders that opened schools in the fall of 1995, relied on the support of a nonprofit technical assistance organization – The Pioneer Institute in Boston.

Pioneer was well-positioned to provide assistance to charter school applicants. Former and then-current staff members were tied to the Weld Administration and deeply involved in passage of the legislation.[10] The organization, having maintained close contact with the Governor's office and EOE, had ready access to important elements of the state's business community. The Institute's Charter School Resource Center staff had substantial experience running private schools, public schools, and businesses. Most important, the Institute's leadership was committed to supporting implementation of the statute.

The Institute's known advocacy of privatizing government services generally and public education in particular (including voucher legislation) did color its public image. Press reports on the Resource Center's activities often began with

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[10]The Governor's education aide, Steve Wilson, was formerly Director of the Institute. His successor, Jim Peyser, took a leave of absence for several months to serve as Undersecretary for Charter Schools during the period of this study.

a reference to the "conservative" Pioneer Institute. This may have discouraged some applicants from making contact with the Resource Center, but it is unlikely that Pioneer's image significantly influenced the supply of qualified charter school operators in Massachusetts. Their immediate need for practical help overrode all other considerations.

Among other things, Pioneer

- Provided charter school applicants with a handbook to guide them through the application and business-planning processes.
- Hired a lawyer to research important questions facing charter schools.
- Reviewed draft charter school applications as a "critical friend," advising potential applicants on EOE's likely perspective.
- Assisted in explaining the charter school concept to local media and helped applicants develop a public affairs strategy.
- Provided applicants with a forum for discussion of topics of mutual interest and other opportunities to network.
- Conducted regular informal "audits" of provisional charter holders to review their progress.
- Offered applicants and provisional charter holders psychological support when they experienced difficulties and setbacks.

This *pro bono* assistance was useful to every type of applicant and of vital importance to the grassroots groups. But Pioneer's capacity to support charter applicants was limited. Very strong on training charter school leaders and providing strategic advice, the Institute could not provide the direct, professional assistance many applicants required in such areas as law, real estate, financial planning, and educational programming. Pioneer lacked professional staff in these areas and the financial resources necessary to retain such expertise. Instead, Pioneer relied on networking, identifying people in the community and on the various applicant teams who had such expertise, and trying to get applicant groups to share their members' talents.

Professional Expertise

Massachusetts charter school applicants and charter holders required professional support on matters involving law, accounting, banking, personnel, insurance, real estate, construction, building codes, public relations, curriculum, instructional services, evaluation, and special education, to name but a few areas. In the private sector, sources of professional advice in these areas abound, but the general expertise of a lawyer, accountant, general contractor, or special education advisor must be tailored to the unique circumstances of charter schools, just as it must for any other type of client. Seemingly relevant experiences elsewhere in the public or private sector need to be considered in light of the Massachusetts charter schools' unique and often ambiguous status. They are untested public entities run by private groups with limited capital,

independent public schools operating at the local level but authorized by an agency of the state government.

But while a group seeking to begin a new small business would have little trouble finding experienced professionals specializing in small business start-ups, charter school applicants had no body of professional experts on which they could rely. Charter schools are new and the potential market for specialized services was (and remains) small and spread across the state. The statute permits 25 charter schools, with no more than five in Boston and Springfield and no more than two in any other jurisdiction. As a result, charter schools did not develop into a distinct area of professional expertise during the course of this study.

The availability and quality of professional support for charter school applicants varied. Applicants drawn from higher education maintained much of the required expertise in-house. For-profit applicants acquired such expertise as a cost of doing business. In both these instances, professionals were paid to learn how to apply their expertise to the problems faced by charter schools – the quality of the expertise might have varied, but it was available. Community service organizations drew on their board members who were prepared to provide or help pay for the necessary advice. Grassroots applicants relied on the expertise of their members, found *pro bono* assistance, or did without. In some areas, most notably special education, virtually every category of applicant appears to have done without.

The Idea of a Charter Schools Association

The limited resources of most applicants and the shortage of professional expertise led Pioneer and some charter holders to push for the creation of a charter schools' association. Advocates of an association sought to pool the funds of charter school applicants and holders to hire various professional staff, particularly a lawyer and perhaps a lobbyist, and to contract for group purchases of school materials, equipment, insurance, payroll services, and special education services.

While an informal association did develop out of the group meetings sponsored by Pioneer, it remained only a forum for discussion and ad hoc collaboration during the course of this study. There are several reasons why the network failed to become a formal organization:

- Charter applicants and charter holders were too focused on their own start-up problems to devote much energy to starting another organization.

- The leaders of many applicant groups are fiercely independent and were unwilling to submit themselves to a process that might limit their freedom.
- Those who were well positioned with the legislature, the Secretary, and foundations thought they could do better on their own.
- The lack of business expertise prevented many from understanding how an association might substantially lower their own school's operating costs.
- Disagreement on whether an association should stick strictly to the business side of charter school operations (i.e., lowering costs through group purchasing arrangements) or move into lobbying and advocacy, and fear that the former would inevitably lead to the latter, prevented many from agreeing to proceed.
- The politics of the charter school movement – fueled by a lack of mutual respect and trust regarding individual members' personal, political, and educational agendas – prevented agreement on who should lead the effort.

Landlords

Perhaps the single most important capability a charter school applicant must possess is the ability to place students in a suitable facility. Massachusetts charter schools must be housed in buildings that meet local zoning requirements, local school building safety and health codes, and federal and state building requirements to assure access to disabled persons. As noted above, the only applicants that started out with assured access to code-compliant school buildings were the institutions of higher learning. In most cases, the other categories of applicants were required to buy or lease, and then renovate, suitable space.

The Secretary granted charters contingent on viable financial plans and assured access to code-compliant facilities. Provisional charter holders who did not possess school buildings were generally forced to lease and renovate space. Table 3.4. displays the facilities that housed the first 15 charter schools.

Table 3.4.

Charter School Facilities

School	Location	Property	Owned/Leased
		Big Business	
Renaissance	Boston	State	Leased
Sabis	Springfield	School District	Leased
		Small Business	
South Shore	Hull	Commercial	Leased
		Higher Education	
Lowell Middlesex	Lowell	Community College	Owned
		Community Service Organizations	
Lawrence Family	Lawrence	Commercial	Owned
Lawrence Com. Day	Lawrence	Parochial	Leased
Neighborhood	Boston	Parochial	Leased
Youth Build	Boston	Commercial	Owned
		Grassroots Groups	
City on a Hill	Boston	YMCA	Leased
Franklin	Franklin	Parochial	Leased
Cape Cod	Nauset	Commercial	Leased
Parker	Ayer/Ft. Devins	State	Leased
Hilltown	Williamsburg	Commercial	Leased
Atlantis	Fall River	Parochial	Leased
Marblehead	Marblehead	Commercial	Leased

With the exception of Springfield – where the district exercised substantial control over the Sabis charter school – local school districts were absolutely opposed to making space available to their competitors. Parochial schools, if available in the district where the charter school would be located, often lacked adequate parking and outdoor space and generally required substantial renovations to meet various code requirements. Moreover, architectural elements with religious themes – including crosses and stained glass windows depicting Catholic saints – were sometimes integral to the fabric of parochial school buildings and difficult to remove or cover. If available, surplus state buildings, not always designed as public schools, also required substantial renovations.

For many applicants, particularly those in suburban and rural areas where appropriate facilities are likely to be in short supply, commercial warehouse or retail units – although costly to renovate and in relatively undesirable locations for school-age children – were often the only sites available. Non-profit community institutions including YMCA/YWCA and Boys/Girls Clubs, which have facilities that may be relatively easy to renovate, and where potential hazards to children are likely to have been minimized, were an underutilized option.

Private Finance

Next to facilities, and directly related to them, access to adequate financing was the biggest problem facing most charter school applicants. While business firms and higher education relied on their reserves to finance the costs of hiring staff and purchasing supplies and equipment before opening their new schools, community service organizations and grassroots groups were forced to seek outside funds. And with the exception of higher education, all applicants required outside, private support to finance the capital expense of renovating their new school facilities.

To smooth out the schools' cash flow, the administration of Massachusetts Governor William Weld did convince banks to loan charter schools funds secured by the state's regular operating payments. However, financial support to help charter holders start their new schools was not included in the 1993 statute. The idea that the state would provide start-up or capital financing was at odds with some advocates' intent to expose public education to the discipline of market forces. Other advocates envisioned a system of charter schools made up primarily of the more capable institutions that would not require special aid to

commence operations. Still others simply failed to consider the cash requirements of start up. And, of course, opponents were uninterested in grants that would improve the chance for success of the charter school initiative.

For a variety of reasons, banks were extremely reluctant to provide long term loans to charter schools:

- They were concerned about making loans for longer than the schools' five year charters, because they had no track record for charter schools on which to base an assessment of applicants as potential charter school operators and lending risks.
- They doubted the business and administrative capacity of most loan applicants.
- They found it difficult to rationalize the loan proposal as a business proposition. Most applicants lacked adequate collateral for the loan. And even with a loan, most lacked the resources necessary to fund their own portion of capital costs. (Banks might lend seventy percent of the value of real property and thirty percent of the cost of renovations to a leased property; the borrower is expected to come up with the rest.) To make matters worse, school buildings are not only expensive to build, but difficult to sell. In the event of default, a bank might find that the commercial building it poured so much money into to convert to a school was worth less on the market as a school than it had been as unrenovated commercial space.
- They were uncertain about the public relations benefits of proposed loans. While a bank might be motivated to make a loan in order to demonstrate its interest in the community, the positive image would quickly spoil if it were forced to foreclose on the school. Moreover, where community attitudes towards the proposed school were mixed, a loan to a controversial school might not generate a positive public image for the bank.
- They feared that the charter school statute would be repealed or amended in a way that would jeopardize repayment. The political controversy surrounding charter schools generated a certain political risk that banks were reluctant to accept.

Start-up funds – to hire and train staff, purchase materials, make down payments on equipment and pay retainers to secure professional services before the school opened – were not widely available. EOE did pass on to the 15 provisional charter holders federal funds designated for charter school start-up, but the fifty thousand dollars each received was an unexpected windfall, albeit one of crucial importance to many. While some applicants were successful in their efforts to raise funds from foundations, most were not.

Capital funds for extensive renovations were virtually nonexistent. Only two of the first fifteen charter holders, Renaissance and Lawrence Community Development, received significant private loans to improve and/or purchase facilities prior to opening. The shortage of capital funds forced most applicants

to defer major construction and focus on minimum essential renovations. In most cases, renovations were financed out of short-term loans made in anticipation of operating revenues or were to be paid out of operating funds as work was done.

4. The Role of Government

The ability of the private sector to provide, support, and develop capable charter school applicants is only part of the supply-side story. In addition, the system of government oversight must allow qualified operators to open schools and regulate the schools in ways that assure compliance with the law, without discouraging too many from starting schools. In Massachusetts, the government institutions with the greatest influence on the supply side of charter school implementation included the staff in the Secretary of Education's Executive Office of Education, local governments – particularly local school boards – and the state legislature.

The Executive Office of Education

Government agencies authorized to grant charters affect the supply of applicants in several ways. By screening applicants, they decide who should operate charter schools. Thus, chartering agencies may reduce the supply of qualified applicants if they refuse to consider applications because they are opposed to the charter concept, if they favor unqualified applicants for political reasons, or if they fail to recognize applicants with the ability to operate a school effectively. Worse, they can reduce supply by creating a regulatory environment sufficiently onerous to discourage qualified applicants. And, too, they can artificially increase the supply of applicants by setting unreasonably low standards.

Most advocates of charter school legislation in Massachusetts opposed giving chartering power to local school boards. They were convinced that local boards would not permit independent charter schools to compete with the traditional public schools controlled directly by the boards. Advocates also rejected giving the power to the state Department of Education because it was considered overly sympathetic to the local school boards. By giving the Secretary of Education – the Governor's political appointee and head of the small Executive Office of Education (EOE) within the Governor's cabinet – the statutory authority to charter schools, advocates reduced the risk that vested interests in the education establishment would derail the initiative.

The Secretary and EOE considered implementation of the charter school act an important mission, so charters were approved without undue delay. In addition, although the new schools were required to comply with statutes administered by

the Department of Education, the Secretary generally counterbalanced any actual, potential, or perceived tendency towards obstructionism within the state government's permanent education bureaucracy by acting as an advocate of the Administration's charter school policy in interagency deliberations.

The decision to give the Secretary of Education chartering authority was based on political rather than administrative considerations. Given this reality, it should not be surprising that the most difficult challenges to implementation of the charter school statute encountered by EOE involved issues of administration. Prior to the charter school statute, the Secretary had few responsibilities related to K-12 education. The EOE staff, not well-versed in this area, lacked extensive knowledge in the operation of schools. No EOE official had significant experience with matters of curriculum, instruction, assessment, or school administration.

Further, EOE faced two problems that would have challenged any public education agency required to oversee independent public schools. First, it lacked the expertise in private business and finance necessary to judge the business side of charter school applications. Second, it needed to create a whole new administrative law for these unique legal entities.

To meet these challenges, EOE was able to marshal approximately eight staff members, many of whom had additional responsibilities unrelated to charter schools. Although committed to the cause, most staff members were young, relatively inexperienced, and new to the intricacies of state's K-12 education bureaucracy. A single attorney was assigned the responsibility of creating the new administrative law.

To gain business expertise, the Secretary relied on an advisory panel of senior business executives to review applications. By all evidence, the panel took its responsibilities seriously and was able to weed out applicants whose business and financial skills were patently lacking. But the panel's role was to screen rather than oversee applicants. The EOE staff, which lacked significant business experience, was responsible to monitor provisional charter holders as they attempted to implement the business plans proposed in their applications.

The small size of the staff, its general inexperience and its lack of expertise led to uncertainty, delay, and a lack of clarity in the regulatory guidance given to charter school applicants and charter holders. EOE had difficulty developing regulations covering such diverse matters as the definition of "average student cost" in the formula for funding charter schools; the application of Special Education, Title I funding and other state and federal laws to charter schools; and the availability of start-up funds. It never defined specific objective standards for

determining the efficacy of proposed educational programs. But with the possible exception of the delay in defining average student cost, which kept provisional charter holders from developing accurate financial plans, none of these problems seriously threatened any applicant or approved charter holder.

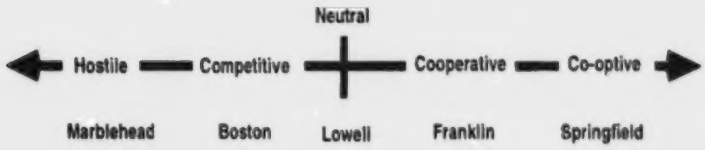
Local Government and School Boards

Until the legislature passed an amendment requiring direct payments, from the state treasury, to charter schools local government could threaten implementation of the charter school statute by withholding payment to the new schools. Even if the courts ultimately forced local governments to make the cash transfers, any significant delay in payment would probably have killed the first charter schools at birth, undermined the willingness of parents to participate in this new venture, and discouraged other qualified charter school operators from submitting applications. So long as they could cut the schools' financial jugular, the attitudes of local governments towards charter schools were of great importance to the supply of charter schools.

And even without this weapon at their disposal, local government had the power to make charter school start-up more or less difficult, by deciding whether or not to cooperate with the new schools on matters as diverse as transportation, the sharing of student records, building permits, and zoning variances. Moreover, particularly in the towns of Massachusetts, where policy is made by the citizenry in town meetings and school committee elections are won or lost on the basis of personal relationships, the attitudes of government leaders are closely tied to those of the public. Opposition from local government was likely to create and/or reflect a hostile environment in the community at large, and such an environment tended to discourage even qualified applicants and undermine a new school's chance of success.

While many expected local governments and especially local school boards to oppose the charter schools proposed for their communities, their positions varied – running from unmistakable animosity to unambiguous support. (See Fig. 4.1.) The local political climate seems to have been influenced by four factors: the severity of the financial threat posed by the charter school, the applicant's reputation in the community before the charter application, the student population targeted by the proposed school, and the status of labor relations in the district. While no single factor provides a complete explanation for local reactions – circumstances unique to each place were at least equally important –together they constitute a list of useful indicators suggesting likely tendencies in local politics.

Fig. 4.1. Local Reactions to Charter Schools



The severity of the financial threat posed by the charter school.

Where a charter school applicant proposed to draw enough students to force substantial cuts in the budget of the district-controlled school system, local reactions were likely to be quite negative. In towns like Marblehead and Hull, where this was the case, local school systems were openly hostile. Some local officials advocated withholding charter school payments, and debate among citizens was bitter and partisan. The climate of ill will was duly noted by local and state media alike.

By contrast, in Boston, where even five charter schools could barely dent the city's school budget, direct opposition did not extend much beyond statements by the Mayor. Indeed, Boston arguably accepted the competitive challenge posed by charter schools when it permitted the establishment of relatively autonomous "pilot schools" within the district and lured away at least one school that would otherwise have gone the charter route. And in the town of Franklin, the state's fastest growing community, local authorities had every incentive to cooperate with a charter school that promised to save them from floating a bond to build a new facility for elementary students.

The reputation of the applicant before the charter application.

Where the applicant had a reputation for good works in the community and strong institutional relationships – like Middlesex Community College in Lowell or the two social service organizations that set up schools in Lawrence –opposition was muted, and the local districts adopted positions of neutrality. By contrast, the grassroots citizens groups in Marblehead had no institutional history. Instead, the school's founders included individuals for a long record of serious, perhaps even bitter, political opposition to the majority of the town's school committee. This history fed local perceptions of conflict between the

charter school and local public school officials and made it difficult for the two groups to establish a constructive dialogue.

The student population targeted by the proposed school.

In Marblehead and Hull, relatively affluent white communities, applicants sought the kinds of students typical of the district, average students in the mainstream, as well as students with unique needs. In business terms, they threatened the school districts' core student markets. Applicants in Lawrence and Lowell sought to occupy a market niche. They focused on a definable and limited group of students whose needs were not the district's highest priority – children from low-income Hispanic families in Lawrence, and at-risk high school students in Lowell. In Springfield, the district actually encouraged Sabis to take over one of the city's lowest performing schools.

The status of labor relations in the district.

Both school boards and the Massachusetts Teachers Association opposed the charter school statute at the state level. In most instances this unity was paralleled at the local level. But in Springfield, where the district and the teachers' union were engaged in a struggle for control of the school system, the district co-opted the charter school concept, motivated in part by a desire to gain leverage over the local union. Although the Massachusetts statute was written with the intent of establishing a competition between districts and charter schools, in Springfield the city government and the school board combined with Sabis International (a private, for-profit school operator) to form a charter school that operates under the district's influence if not outright control.

Sabis manages the school's educational program, business decisions, and personnel under the terms of a contract with the charter schools' board of trustees; but the city and district provide Sabis with a school building at favorable rents, assign students to the school from the district's own rolls, and dominate the school's board of trustees. The local teachers' union opposed the introduction of charter schools, blocking implementation of the district's plan to convert one school building to charter status and refusing to work at the school that was converted for Sabis. But with Springfield allowed up to five schools under the state law, the union faced the prospect of additional schools with non-union teachers, and a more difficult position in future contract negotiations with the district.

The Legislature

The state legislature affects the supply of qualified applicants in three ways. First, it defines the scope of autonomy available to charter schools. The broader the scope of autonomy granted to charter schools, the smaller the supply of applicants qualified to operate the schools. The Massachusetts legislature established the broadest possible scope of charter school autonomy, and in so doing, it limited the potential supply of qualified applicants. The number of groups capable of implementing new curriculum and instructional strategies is larger than the number of groups also able to administer a school, run a business, and adhere to the constitutional standards applied to public schools and government agencies.

Second, the legislature defines the parties entitled to receive a charter. In this case, the smaller the scope of this definition, the smaller the supply of qualified applicants. By way of illustration, the number of teachers' groups capable of managing a Massachusetts charter school constitutes only a small portion of the total number of qualified potential operators. The Massachusetts legislature defined the broadest possible group – excluding only religious institutions.

Third, the legislature affects the supply of qualified operators in its choice of government agencies to oversee charter school applicants and charter holders. Agencies that consider themselves to be in direct competition with independent charter schools (i.e., school boards), and agencies whose main constituencies are agencies that consider themselves to be in direct competition (i.e., state departments of education), are less likely to grant charters than agencies that have no conflicting mission. As suggested previously, the Massachusetts legislature increased the actual supply of operators by giving the Secretary of Education chartering authority, rather than the Department of Education or local school boards, because EOE's mission to implement the charter school statute was not in conflict with any of its other responsibilities.

However, by requiring local government to pay charter schools, the legislature gave towns and cities a real measure of control over the new schools – the power to make or break at least the first schools. If courts found that local governments were not obliged to pay, charter schools would be established only where local government did not view them as a threat. And even if the local government was required to make payment, the time it would take to resolve the issue in the courts would assure the death of the first schools, discourage parents and potential applicants from considering the charter school option, and threaten the entire program's political viability.

It was in the area of charter school payments that the Massachusetts legislature continued to influence the supply of qualified applicants during implementation of the 1993 charter school act. Bills introduced in 1994 and 1995 to repeal the charter school statute, and to move chartering authority from the Secretary to local school boards, never threatened the program seriously. The real hazard was the possibility that local government would refuse to pay the charter schools. Because of the financial threat the new schools posed to the school boards' budgets in such towns as Marblehead and Hull, the prospect that at least one local government would withhold payment was taken seriously by the Weld Administration. In 1995, the legislature amended the charter school statute to provide for "direct payment" from the state treasury to charter schools, removing local governments' ability to affect the supply of charter schools directly. But the prospect of indirect control remained.

Local governments used the possibility of withholding payment to reduce the financial impact of charter schools on district budgets by lobbying the legislature to appropriate state funds to "reimburse" them for their charter school payments. In principle, the Weld Administration opposed these payments because they would have eliminated the competition intended to education reform on local districts. Moreover, the financial cost of a permanent reimbursement scheme would almost certainly limit the charter school program to the 25 schools authorized by the 1994 statute. (The legislature would never agree to "pay twice.") In practice, the Administration was prepared to consider temporary funding to school districts to ease their transition to a competitive market, but it was unwilling to make those payments a permanent feature of district financing. As part of the legislature's 1995 agreement to direct funding, the Administration agreed to a one-year reimbursement.

Opponents of charter schools hoped to make reimbursement permanent. But so did many charter holders, who saw reimbursement as a way of healing wounds in their communities, improving the local political climate, and opening up the possibilities for cooperation with their local school districts. Many charter holders endorsed reimbursement in the local media. Advocates of charter schools in the Weld Administration and elsewhere worried about the willingness of the first charter holders to "pull up the rope" after they managed to escape unresponsive school systems. The fact that many charter holders were quite prepared to deny that chance to thousands of children suggested that charter school operators might act to limit the supply of qualified applicants in other ways. The experience led some charter school advocates in the policy community to review and perhaps qualify their support for a charter schools association, even if they did not abandon the concept.

5. Findings and Recommendations

This section summarizes the contributions of applicants to the supply side of charter statute implementation. It also reviews the principal barriers to a supply of qualified charter school operators in Massachusetts. It then makes recommendations to legislatures, chartering agencies, and foundations on legislation, regulation, and actions to improve and increase the supply of qualified charter school operators.

Applicant Contributions to the Supply Side of the Charter School Concept

For charter schools to make a difference in public education, there must be a supply of applicants qualified to operate enough schools, serving enough students, in enough jurisdictions to constitute a serious economic threat to the traditional system of district schools. Primary, middle, and high schools serving niche markets and mainstream students are required in urban, suburban, and rural jurisdictions. Each type of applicant described in this report contributed to this goal, but could do more.

Big business proposed to operate a few K-12 schools of roughly 1000 mainstream students in urban areas. The number of schools operated by these Education Management Organizations (EMOs) will increase as the new firms expand and appropriate school buildings can be made available.

- Small business planned to operate a few K-12 schools serving around 200 mainstream students in suburban areas. Increasing their contribution will depend on the ability and willingness of these entrepreneurs to grow their firms into EMO's.

- A few institutions of higher education appeared prepared to operate small specialized schools in urban markets.[11] Increasing the contribution of this group

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[11]There is a limited market for schools aimed at special student populations, yet the most qualified applicants tended to propose schools serving such populations. Schools for these students are needed and charter schools are perfectly good way to meet the need, but when university education departments, community colleges, and community service organizations sought to establish relatively small schools serving niche markets, rather than large numbers of mainstream student s, the general public lost a large pool of highly-

requires convincing more of such institutions to apply for charters, particularly those in suburban and rural jurisdictions, and to shift from niche to mainstream student markets.

- A small number of community service organizations were prepared to operate primary and secondary schools, each serving around 300 mainstream and special students in urban areas. To increase the contribution of this group, more of these organizations in suburban and rural areas need to be convinced that charter schools would contribute to their missions. They also need some technical support.
- A very large number of grassroots groups in urban, suburban, and rural areas was eager to operate primary schools serving all students. To increase the contribution of this group requires increasing their overall capacity to operate an independent public school.

With the exception of higher education, every applicant group lacked some capability required of a charter school operator, found it difficult to locate high quality professional support, and was short on start-up funds. But most groups did not face serious problems in all three areas. For-profit firms budgeted for professional support to supplement their own expertise and to obtain the personnel, services, and materials necessary to ready their schools for students. Community service organizations drew on their existing staff and leveraged their board to fill most of their needs.

Only the grassroots applicants faced across-the-board shortages of expertise and funds. The creativity and perseverance of the grassroots groups that opened their doors in September 1995 is strong evidence that the ability to start a charter school is a function of willpower as well as capability. Nevertheless, access to resources that would improve capacity would probably increase the supply of qualified applicants from this important group.

Barriers to the Supply of Qualified Applicants

Several factors limited the supply of qualified charter school applicants in Massachusetts. Some challenged every type of applicant, while others affected only a subset. One perceived barrier, the lack of timely government rulings on charter school regulations had no discernible effect on any applicant group. (See Table 5.1)

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qualified charter school operators.

Table 5.1

Principal "Supply-Side" Barriers

Barrier	For Profit	Higher Ed.	Com. Service	Grass Roots
Facilities Shortage				
Urban Cap				
Access to Expertise				
Access to Start Up $				
Access to Capital $				
Untimely Gov't Rulings				
District Opposition				

Facilities

With the exception of higher education institutions, appropriate and affordable facilities were a problem for most applicants in every category. The colleges and universities that applied for charters had adequate space on campus, but most other applicants had to find, lease and renovate space. The large for-profit firms, with plans to enroll over one thousand students in fully equipped, up-to date school buildings that would serve as showcases for a national audience, required low-cost access to school buildings controlled by local districts. Small businesses, community service, and grassroots applicants did not expect such facilities, but given their lack of financial reserves and – for suburban and rural applicants– the absolute shortage of potentially suitable space in the communities where they proposed to establish their schools, finding affordable sites was quite difficult.

Access to Capital and Start-Up Financing

Again, with the exception of the institutions of higher education that applied for charters, applicants generally suffered from a shortage of financial reserves to

buy and/or renovate school facilities, purchase supplies and other equipment, and hire staff. Grants from the state or foundations were not sufficient for such purposes, and the private sector was not prepared to loan funds to most charter applicants.

The Municipal Cap

The applicants with the greatest capacity to operate Massachusetts charter schools – large for-profit firms, institutions of higher education, and community service organizations – were located in and/or concentrated on the state's urban areas, including Boston, Springfield, Worcester, Fall River, Lowell, and Lawrence. Yet Boston and Springfield, the largest cities in the state, were restricted to five schools each; and no more than two schools could be established in any other municipality. The cap did not have an appreciable impact on grassroots groups in the suburbs or rural areas – it would be hard for many such towns to muster more than one qualified applicant or to support more than one charter school.

District Opposition

Institutions of higher education and community service organizations proved quite able to fend for themselves in the political arena. They have allies in the important private and public sectors, are part of the local power structure, have good reputations, and are led by people with political savvy. In short, these applicants had a variety of means to preempt, mute, counter, or otherwise deal with the potential opposition of local school districts. Judging from local newspaper reports, higher education and community service groups seemed immune from the controversy surrounding charter school applications from business and grassroots groups.

Most other applicants were vulnerable to district opposition. In most cases, applications from "big business" depended on local districts to provide a suitable facility for their proposed charter schools. Most grassroots groups hoped for district support or at least acquiescence, and the prospect of hostile opposition appears to have discouraged some grassroots groups from pursuing their applications. Some citizens groups may have planned for and perhaps even relished a fight with the district, but even they tired of it as it became clear that conflict made it more difficult to start their school. Indeed, many – if not most – of the first group of charter holders favored permanent state reimbursement to local districts to offset payments to the charter schools because they believed it would get their own districts "off their back."

Untimely Government Rulings

The creation of a new regulatory regime for charter schools proved to be an unwieldy and inefficient process. At one time or another it led every applicant to feel psychological stress and consternation, and some to voice concern about their ability to carry on in light of all their other difficulties. Hindsight is 20/20, and much could have been done to improve the system. But delayed rulings, ambiguous rulings, and even unfavorable rulings do not appear to have been the cause of any charter applicant's demise.

The problems experienced by EOE followed a familiar pattern in the development of administrative law. Charter schools are a new phenomenon with a sometimes ambiguous legal status and a brief history of operation in other states. The legal, political, and supporting environments in which Massachusetts charter schools operate is unique to that state. The agency is engaged in an experiment in regulating a system of independent public schools and interacting with other agencies that are also new to charter schools. Some difficulties were inevitable in the first year of implementation, regardless of staff experience, size, or expertise. It is even possible that EOE allowed granted charters to applicants who, in retrospect, were not initially qualified to operate a school to high standards.

In the future, as EOE monitors and reflects upon the experiences of the first wave of applicants and the first group of charter holders, the agency's regulatory capacity is likely to improve.[12] The long-term question is whether the agency can assure that charter holders meet high standards as providers of quality educational services, financial managers, and holders of a public trust, without

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[12]For example, EOE's initial capacity to assess the educational component of applications was weak and the criteria used to judge likely educational success and charter implementation were at best informal and impressionistic. By 1996 the situation had changed. Agency staff had some experience with the implementation of educational programs in the new charter schools. Individual with some technical expertise in educational programming joined the staff. Experts were hired to help existing charter schools develop measures of educational success. Regulations were put in place to assure that the schools developed detailed accountability plans, including specific criteria for determining their educational success. These plans were submited for agency review and approval as charter amendments to the Associate Commissioner for Charter Schools, the official whoassumed authority for the program after a plan to reorganize the state public education agencies eliminated the Secretary of Education and EOE.

jeopardizing the flexibility and capacity for innovation that make charter schools attractive.

Recommendations to Legislators

Charter schools are not a "proven" concept – they are an important test of the theory that higher levels of autonomy will enable individual public schools to improve their performance as educational providers, economic entities, and government institutions. States differ both in the scope of autonomy they offer charter holders and in the extent to which they hold the schools accountable to the market and government. The right mix remains to be determined.

Legislators considering charter school bills for their own states should carefully review the implementation of charter school statutes in other states. In the course of these assessments they should not simply consider the testimony of charter school applicants, operators, and advocates – they should correlate the experience with the kind of charter school statute passed in the witnesses' home state. Nor should legislators simply copy the statute of another state. Political environments will differ; the structure of state laws that will interact with the charter school bill vary; and the existing statutes are flawed – as witnesses will doubtless admit. Legislators truly interested in the charter school concept should draw on all the statutes, consider the effect of each provision on the autonomy and accountability of the school, and create a statute that fits the needs and legal traditions of their own jurisdiction.

The Massachusetts statute offers charter holders complete freedom from district control, but holds them accountable to both the market and government, and makes this offer to virtually all conceivable applicants. It represents the category of charter school statutes that create "independent public schools" – schools that by law must control the implementation of their approved educational programs; the range of business decisions related to the operation of a school, and the procedures that govern the decision making of independent state agencies.

Legislators considering charter school bills should not confine their review of charter school statutes to Massachusetts. They should also assess the experience of states with statutes that authorize "super site-based management" and confine the scope of autonomy to the educational program; and the experience of states with statutes that permit "contract schools," i.e., allowing a chartering agency to vary the scope of autonomy granted to the charter holder. In these states, fewer charter schools may be formed because some school districts are reluctant to

offer new opportunities to potential providers, but legislators need to consider the overall performance of those less autonomous schools that the more open-minded districts do authorize. Charter schools should be about educational performance – autonomy is not a goal, it is merely a means to that end.

Consider how much autonomy is necessary to improve student outcomes.

The motivation for charter legislation is a desire to improve the educational performance of the public school system. School-level autonomy is only a means to that end. The early experience in Massachusetts suggests that many potential charter school applicants will have great difficulty securing the resources necessary to exercise the broadest scope of autonomy in a responsible fashion. More potential charter school operators have the capacity to implement an educational program; fewer can also run a sizable business and operate a government agency.

The proposition to be faced is whether applicants with the broadest scope of autonomy will show significantly higher levels of student performance. Legislators must consider whether that proposition is valid. If it is not, then requiring that operators have the capacity to exercise the full scope of autonomy offered by the Massachusetts statute artificially limits the supply of applicants capable of improving educational performance.

If it is the case that educational performance increases with the scope of autonomy, there is still reason to consider whether every charter school must have maximum autonomy, as the Massachusetts statute requires. Charter school statutes could adjust autonomy to the applicant's capacity. Such an approach might greatly increase the supply of qualified applicants.

Tailor the range of eligible charter applicants to the scope of autonomy granted in the statute.

In Massachusetts, charter schools are independent educational programs, economic entities, and government institutions. The skills required to manage them extend well beyond an understanding of curriculum, instruction, and classroom management. Given this broad scope of autonomy, the legislature would not have been wise to permit only certified teachers and/or administrators to hold charters. Such a restriction might well have discouraged the most capable applicants from participating in the charter school program. However, if the statute had limited autonomy to the implementation of an

approved educational program, and left the rest of the schools' operations under the control of school districts, restricting the applicant pool to teachers and administrators would have been reasonable. Once the legislature has determined the scope of autonomy it believes necessary to improve educational performance, it should make sure that the individuals and institutions able to exercise that autonomy are permitted to apply for charters.

Assure that the staffs of chartering agencies possess expertise equal to the scope of autonomy permitted to charter schools.

If the legislature determines that charter schools should control their educational programs, business decisions, and government operations, chartering agencies need the ability to determine whether an applicant is competent to exercise that autonomy. The most likely chartering agencies – state education agencies including state departments of education, local school boards, and state institutions of higher learning – are not competent to judge the viability of business plans or the legality of proposed decision. If chartering agencies lack such expertise on their staff, they may be able to obtain it from consultants, private firms, universities, or non-profit corporations. And although the legislature should not specify the types of expertise an agency must possess, it should recognize that chartering agencies will need business and legal expertise and provide some funds for this expertise and follow the agencies' efforts to obtain professional support.

Avoid permanent caps

The cap of 25 schools established in the Massachusetts charter school statute was sufficient to allow the Secretary to experiment with a wide range of applicant groups: schools in urban, suburban, and rural jurisdictions across the state – and educational programs serving diverse sets of students in a variety of ways. The limited number of charter schools also presented the small EOE staff with a barely manageable set of regulatory challenges. If the charter school program shows promise, it can be expanded; if not, the hardships created by closing the program down will be limited to a relatively small number of school districts and students.

However, once a cap has been established, it may prove politically difficult to lift. One solution is for the legislature to set an initial cap on the number of charter schools for some number of years, with an automatic expansion of the charter school program unless the legislature, a state education agency, or the Governor determines that the cap should not be lifted because the schools are failing to

improve student performance, maintain financial solvency, or honor their responsibilities as government agencies.

Caps on the numbers of schools to be located in any town or city – and particularly in cities – can be difficult to justify. Because large for-profit firms concentrate on urban areas, and because higher education institution and community service organizations tend to be concentrated there, local caps restrict the pool of the most qualified applicants. Moreover, large urban school districts are both the most capable of meeting the economic challenge of by charter schools and the most in need of competition. They enjoy substantial potential economies of scale that could translate into real advantages in any competition with charter schools for public school students. But without serious competition, districts have little incentive to realize those advantages. In these cases, opening up the market for public schools to highly qualified applicants is precisely what is needed.

On the other hand, small school districts may not be able to support two separate public schools serving the same grades, and the competition for students between the charter and district-run school may substantially undermine the overall quality of public schooling. Where the school district itself is the chartering authority, the risk of this situation is low – even where a school board dominated by the most ardent charter school advocates. Where a state agency is the chartering authority, the outcome is less certain. In this case, a legislative cap for districts under a certain size may be required.

Encourage state-sponsored institutions of higher education to establish charter schools targeted to attract the typical student in the district.

State universities, colleges, and community colleges possess many, if not all, of capabilities necessary to operate the kind of independent public school established in Massachusetts. They have facilities; broad expertise in education, business management, and government operations; a strong administrative capacity; access to state funds to support start-up and capital costs; solid ties to local institutions; and the benefit of a positive image in their local communities. Unfortunately, when they apply for charters, these highly qualified applicants tend to propose small schools serving specialized markets. Legislatures should consider ways of enlisting state-sponsored institutions of higher education in the implementation of charter school statutes – perhaps even requiring some to open mainstream schools in failing school districts.

Address the facilities problem.

As discussed above, independent public schools, such as the charter schools created by the Massachusetts statute, must find their own facilities. Most applicant groups lack both appropriate school buildings and access to the financing necessary to acquire and renovate such facilities. Local school boards are not generally prepared to give the competing charter schools access to school buildings, and most of the buildings controlled by other lessors are far from ideal. Legislatures could give charter schools priority in the re-use of surplus buildings owned by the state, and even special financing. They could also require local school districts to give charter schools access to surplus school buildings (although recalcitrant districts will simply act in ways that keep their buildings off the surplus list). And even if these solutions work, both are very partial answers, for they depend on the serendipitous conjunction of buildings and applicants in the same jurisdiction.

The financing of charter school facilities requires a systemic solution. Two options deserve serious investigation:

- **A state-level charter school finance authority funded by tax-free bonds.** The state agency would control the pool of funds raised by issuing the bonds, make loans to charter schools, and repay its obligations by securing a portion of the operating payments made by the state to the borrowing schools. By pooling building finances and providing state guarantees, risk would be spread and more attractive interest rates obtained. Should an individual charter school fail, the authority could seize the building, sell or lease it to a new charter holder, or sell or lease it to any other party.

- **Extension of charter terms to at least 15 years or creation of a statutory presumption of charter renewal unless the school fails to meet educational, financial, and other standards.** Either of these steps would substantially reduce the uncertainties facing potential lenders and permit charter schools to seek sale/lease-back construction financing from institutions interested in real estate investments. A charter school might find property zoned for low-density office space, design the school facility so that it could be reconfigured for professional office space should the charter school fail, obtain a construction loan, sell the completed facility to an investor, then lease the facility back from the investor for a period of years. The prospect of a 15-year charter or the legal presumption of renewal should lead chartering agencies to consider applicants' qualifications carefully before granting charters and to regularly monitor charter holders' operations. However, if charter schools become a substantial portion of the public school system – if the number of public school students attending charter schools grows to a point where it rivals that in the district run school system – this level of oversight will be required whatever legislature determines the charter length to be.

Address the expertise problem.

Responsible exercise of the autonomy given to charter schools requires a good deal of professional expertise. Charter schools are unique institutions: existing knowledge of education, public administration, law, accounting, finance, and business must be tailored to the peculiar circumstances of these new organizations. To serve charter school clients effectively, practitioners in these fields will need to build new knowledge. Unfortunately, legislators cannot rely on market forces to supply needed professional support immediately after charter legislation is enacted. Without government intervention, the development of such expertise is likely to be slow because the demand is limited to relatively small number of generally cash-poor charter school applicants and operators scattered across the state. Grassroots applicants have a particular need for this expertise.

To speed up the knowledge-building process, the legislature should establish a small program of limited duration providing grants to qualified educational institutions and non-partisan public policy organizations. The grants would be aimed at creating a cadre of professional experts and a body of non-academic literature readily accessed by professionals serving charter school clients, and particularly grassroots applicants.

Recommendations to Chartering Agencies

Learn from the experience of chartering agencies in other states.

Because the legal structure of public school organization, finance, and employment are primarily matters of state law, the charter school systems of the states will differ widely. Nevertheless, the first priority of the new chartering agency should be to examine the regulations of chartering agencies in states with analogous traditions of law and public education, and to begin a dialogue with the staffs of those agencies. Problems of the charter schools' legal identity; compliance with federal law governing special needs and low income students; the precise local, state, and federal funding streams to be included in the definition and calculation of payments to charter schools; the characteristics of different types of applicants; and typical issues raised in the oversight of charter school operators are not unique to any one state. Moving from a regulatory system based on control of inputs and process to one based on outcomes and performance will be a major challenge for most government agencies given chartering authority, and particularly for education agencies. Understanding the

experience of one chartering agency will help another move more quickly along the learning curve, and will speed the development of a well-ordered regulatory environment that promotes charter school autonomy while holding operators accountable for the performance of their public trust.

Match staff capacity to the scope of autonomy offered charter schools.

Legislatures usually give an existing education agency – possibly state departments or boards of education, local or intermediate school districts, and state universities – the authority to grant charters and the responsibility to oversee charter schools. In some instances, entirely new state agencies are created to implement the charter school statute. In all cases, the agency must be staffed to oversee the full range of charter school powers, which may include implementation of a unique educational program, command of the institution's business decisions, and control of governmental decision processes related to the operation of a public school.

Charter schools are first and foremost educational programs, which explains why legislatures think first of education agencies when considering where to place the regulatory function. But the oversight of a charter school's educational programs requires an emphasis on outcomes and efficacy, and education agencies have tended to focus on inputs and process. Supervision of the traditional district-managed public school revolves around compliance with regulations governing such matters as the number of hours students must be taught certain subjects and the number of students to be counted for the purposes of determining state payments. The decision to grant a charter should involve judgments about the likely success of the proposed educational program with the student body the charter applicant seeks to serve. The decision to renew or terminate a charter should focus on the extent to which its educational program is improving educational performance. Thus the agency overseeing charter schools requires expertise in curriculum design and instructional strategies, an understanding of their appropriateness to different types of students, knowledge of student demographics in the jurisdictions where charter schools will operate, and a familiarity with the research documenting the success and failure of various school designs.

To the extent that a state's charter school statute extends the schools' autonomy to business and governmental matters, the expertise required of a chartering agency reaches well beyond the purview of traditional education agencies. In these circumstances, the decision to grant a charter will involve judgments about

the applicant's business plan (including financial projections, major contracts, personnel policies, and pay scales); the applicant's adherence to statutes governing the operation of public schools and public agencies (including procedures to assure the civil rights of charter school applicants, students, parents, and employees, and compliance with statutes requiring open meetings, freedom of information, and adherence to government procurement processes); and the capacity of the management team to coordinate implementation of the business plan and the educational program, in the context of clearly defined constraints on decision processes. If the state is to have a healthy and well-regulated system of charter schools, the business and legal expertise implied by these requirements is no less important to the chartering agency than the educational expertise discussed above.

Recommendations to Foundations

Without the intervention of private foundations committed to implementation of the charter school statute in their state, applicants are likely to lack the assistance necessary to assure their success as public school operators. Foundations that see charter school legislation as an important vehicle for reform of the public school system should invest in the creation of technical-assistance organizations, encourage the most qualified applicants to organize schools serving mainstream students rather than niche markets, and create funds to train potentially promising applicants – especially grassroots groups – and support the purchase and renovation of facilities.

Invest in non-profit Technical Support Organizations (TSO)

Charter school statutes do not automatically create new schools; the formation of charter schools depends on the actions of many private individuals and institutions. Charter school legislation permits the development of a new system of public education made up of more or less autonomous public schools, but the health of that system depends on the quality of charter school applicants and operators.

Because charter schools are unique entities created by statute, the supply of relevant professional expertise in such areas as law, accounting, insurance, real estate and even school administration in the private sector is scarce, hard to locate, and varies in quality. Charter school applicants lack a "voice" in the media and find it difficult to finance their efforts to propose and start their schools. A large portion of the applicant pool, especially grassroots groups,

requires help to make it through the difficult process of developing a proposal, submitting an application, negotiating a charter, starting a charter school, and operating the school in a responsible fashion. New charter schools lack the capacity to realize their potential economies of scale through group purchasing and shared service contracts.

Of particular importance to new charter schools are:

- Training of charter school founders in leadership and management of the charter school start-up process.
- Access to high-quality professional services tailored to charter schools' needs.
- Assistance in the location, improvement, and financing of school facilities.
- Access to opportunities for group purchasing and shared services.
- Support in the area of public affairs.
- Access to start-up financing.

The state agencies given the power to grant charters generally do not possess the full range of expertise required to plan or operate a charter school. Moreover, both agencies and applicants find it awkward to mix the relationship between a charter grantor and charter applicant with that between a technical advisor and client in need of support. Applicants need a "critical friend." Chartering agencies must be – and will always be perceived by applicants to be – more critic than friend.

Under these circumstances, independent organizations that are ready, willing, and able to provide technical assistance to potential charter school operators are essential to the supply of qualified applicants. They are particularly important if the full potential of grassroots applicants is to be realized. These organizations may be institutions with missions of advocacy in public policy like Pioneer, prepared to move into implementation. They may be social service organizations with experience in community development activities. Or they may be university programs with a clinical bent, such as those sponsored by many law schools, or university-based professional and certificate programs. It may be the case that a consortium of such institutions could serve the technical assistance function.

Should charter school legislation pass in other states, prospective operators will face the same needs as applicants in Massachusetts. Independent technical assistance should be available as soon as prospective operators begin serious work on their applications, but an effective Technical Support Organization (TSO) cannot be created overnight. The data, expertise, networks, and organizational capacity required for effective assistance should be in place before

applicants begin to seek help. Those operating the TSO should have time to draw on the experience of similar operations in other states, to consider the lessons learned, and to apply this understanding to the specific circumstances of their own state. This requires advance planning – scheduled to coincide with key decision points in the legislative process – to develop necessary assistance capabilities should a charter school statute be enacted, and to minimize the potential waste of resources should the legislation fail.

Encourage the most qualified applicants to organize charter schools targeted to mainstream students.

For charter schools to become a significant component of public education, they must attract a substantial portion of mainstream students. The Massachusetts experience suggests that the least capable applicants – grassroots groups – are the most likely to target the mainstream market. Profit-seeking businesses also hope to attract mainstream students – and have substantial capabilities – but lack important connections to local communities and institutions. Higher education and, with some assistance, community service organizations would seem to be well-qualified to operate mainstream charter schools. However, both tend to focus on specialized and limited niche markets – proposing schools for gifted, at-risk, and disadvantaged students.

One way of increasing the supply of qualified applicants interested in establishing mainstream charter schools is to offer institutions of higher education grants to plan and establish mainstream schools. Although state colleges and universities generally have the resources necessary to start a school, financial incentives might spark interest among administrators, grants officers, and faculty members in private institutions.

A second approach is to encourage partnerships between members of complementary applicant groups. A partnership between suburban parents and a school of education marries a ready student market and motivated parents with college resources and opportunities for research and teacher training. A partnership between a citizen's group and a for-profit businesses – like the one that led to creation of the Renaissance School in Boston – blends the former's political interest in reform of the public school system with the latter's economic interest in proving the efficacy of its proprietary educational program. Partnerships between community institutions and for-profit education businesses could significantly extend the service organization's reach, and allow the firm to do well if the school does well. A grassroots group of teachers in need of administrative support and space might fit right in with a community

institution that wants to add education to its program of social services or a local small businessperson with entrepreneurial skills. To legitimize the partnership concept, foundations could sponsor partnership fairs and other forms of matchmaking, and offer planning grants to support the development of partnership applications.

Create a fund to train potentially promising applicants from grassroots groups and community service organizations.

It costs money to start a charter school. Even before an applicant team receives a charter, the leader must learn about this new entity and the application process; create a team of like-minded and capable individuals to develop and market an application; and build and integrate knowledge about education programs, school administration, business planning, real estate, construction, the laws governing public schools, and many other areas. The majority of grassroots applicants, and many community service organizations, lack some or all of the expertise necessary to develop a high-quality application and operate a charter school. These obstacles are not insurmountable, but outside assistance would make it much easier.

The partnering discussed above is one way grassroots groups and community service organizations can compensate for their weaknesses, but many lack the minimal level of knowledge necessary to negotiate a balanced relationship with a more capable partner. With training, many grassroots leaders and officers in community institutions could develop the expertise necessary to develop an application or enter into a real and productive partnership, but training takes time and costs money. Many applicants lack such funds, but it may be hard for foundations to determine which applicants are likely to take that training and use it.

To increase the supply of capable charter school operators and assure that training grants are not wasted, foundations should consider establishing training funds administered by TSO's. The organizations would develop the training program and identify the most promising candidates. To discourage all but the most entrepreneurial and committed candidates, trainees would be asked to sign a contract agreeing to make their best efforts to submit a charter school application and to include in their proposed budget a plan to repay the fund from the operating revenues of the charter school. Candidates that failed to make a good faith effort to develop and submit an application would be liable for the costs of their training.

Create a fund to provide down payment loans for the purchase and renovation of facilities by non-profit charter school operators

Banks will lend a borrower perhaps 80 percent of the cost of purchasing real property and roughly 30 percent of the cost of making improvements to a leasehold. Institutions of higher education generally do not require outside loans because they already have adequate school facilities and can finance any necessary improvements out of their overall operating budgets. For-profit education firms – big and small – factor these costs into their business plans and enter the market only when they believe the returns generated by the operational charter school will justify the up-front investment. (The decision of Edison, Sabis, and Dovetail not to purchase buildings suggests they believed their operations would be more profitable under a lease arrangement.) Many community service organizations and virtually all grassroots groups need loans, but find them extremely difficult to obtain.

One of the most important reasons that these applicants fail to qualify for mortgage loans is that they lack money. Cash shortages are hardly the only reason banks are reluctant to loan money to most charter school applicants and operators. The typical applicant's lack of business and managerial capacity, the lender's limited knowledge of charter school operations, and the fact that charter schools have no track record, are at least equally serious obstacles. But if these problems were solved through training programs conducted by the TSO, cash shortages would still prevent many applicants from obtaining loans.

Unlike higher education, community service organizations and grassroots groups generally lack school facilities of their own. Unlike businesses, individuals in these groups do not look at the school as a money-making proposition and hence are unwilling to tie their personal financial future to the fate of the school. Because most grassroots groups and community service organizations are unable to raise the necessary 20-percent down payment toward the purchase of a facility most banks will not even consider a mortgage loan application. The inability to purchase a building forces most of these applicants into leased buildings. But the same cash shortage that keeps them from purchasing requires many charter school operators to phase in the substantial renovations necessary to bring most leased properties into full compliance with applicable zoning, health, safety, and access codes.

One potential solution is for foundations to create a fund to supply qualified applicants with the cash reserves necessary for them to apply for loans to purchase and renovate buildings. The fund could be administered by the TSO; indeed, access to the program would provide an incentive for charter school

applicants to take advantage of the TSO's training and technical support. Charter school applicants who met the TSO's expectations of a qualified charter school operator would be granted long-term, low-interest loans for the down payment on a facility or part of the costs of renovation.

Through its training program and loan review process, the TSO would reduce the overall risk faced by a potential lender. While lenders generally are not willing to consider outside loans as part of a borrower's down payment, the TSO's imprimatur and a foundation's willingness to risk its own funds may persuade bankers to accept this practice in the case of charter school loans. Banks want borrowers to put up their own money to make sure that a borrower cannot easily walk away from a loan. When combined with the facts that most grassroots groups and community service organizations have a great deal at stake when they start a charter school (i.e., their children in the case of parent groups, their jobs in the case of teacher groups, their reputation in the case of community service organizations) and that their operating payments are guaranteed by the state (based on enrollment), the TSO's activities should make the loan package far more attractive to a private lender.

Appendix

A. Sources and Methods

The assessments contained in this report rely on several sources and methods:

• Observation of informational meetings for potential applicants sponsored by the Massachusetts Secretary of Education and the EOE staff; weekly meetings of representatives of the first fifteen charter holders sponsored by the Charter Schools Resource Center of the Pioneer Institute for Public Policy; and site visits to charter schools performed by the Resource Center at the request of charter holders as "critical friend" reviews in preparation for formal agency reviews.

• Confidential discussions with officials in the legislature, the Governor's office, the Executive Office of Education, local governments, and union locals; members of the Pioneer Institute and its Charter Schools Resource Center staff; individuals with special expertise retained by Pioneer under contract; other professionals providing specialized services to charter applicants and charter holders; members of the first charter schools' applicant teams; and members of groups that did not receive charters.

• Review of the Massachusetts charter school statute; materials for charter applicants produced by the Secretary's staff in the Executive Office of Education and by the Pioneer Institute; the 65 proposals submitted to the Secretary during the 1994 application cycle; and articles on charter schools published in *The Boston Globe* and local newspapers.

Description of the Charter Concept and the Massachusetts Statute

Discussions of the charter concept, charter legislation in general, and the Massachusetts statute in particular rely on two prior studies already footnoted in this report.

Marc Dean Millot, *What Are Charter Schools?: An Introduction to the Concept and the Statutes*, University of Washington (UW)/RAND Program on Reinventing Public Education (Seattle), April 1995.

Marc Dean Millot, *Autonomy Accountability, and the Values of Public Education*, UW/RAND Program on Reinventing Public Education, University of Washington (Seattle), September, 1996.

Categorization of the Applicant Pool

The basic categorization of applicants rests primarily on how applicants described themselves in their applications.

For the for-profit applicants the added distinction between big and small business was based on national presence or aspirations and capitalization. The relatively big businesses like Sabis and Edison either operated schools in several states or intended to when research for this study was being conducted and controlled or had access to millions of dollars in capital. The small businesses had no schools in operation, expressed no plans to grow beyond their local markets, and used personal resources, including savings such as second mortgages to obtain the capital required for start-up. The distinction is practically self-evident and was reinforced by reviews of news reports, discussions with observers in the emerging education industry, and the remarks of members of teams from these applicant groups.

For the grassroots applicants, the effort to distinguish between educator, parent, and citizen groups is based primarily on the descriptions of the leaders contained in charter applications, conversations with members of the applicant teams, observation of their remarks in various meetings, review of their remarks as recorded by the press, and the opinion of others. Educator groups could be distinguished by their leaders' degrees in education and their credentials as teachers, administrators, or their positions on college faculties; their tendency to emphasize educational programming in their applications, and the command of academic literature relevant to educational programming evidenced in their applications. Citizen groups were led by individuals – who might well also be parents or teachers – with a history of political activism in matters of local education; their applications made note of this activism; and they often referred to this activism when asked about their motivations during interviews or in the course of their participation in meetings. Leaders of parent groups had school-aged children they hoped would be able to attend their charter school. Parents did not emphasize political activism in their applications, interviews, or their remarks during meetings, although they often did note their participation as volunteers in their local traditional school system.

Big Business Applications

Remedial and Education Support Systems (RESS) (Application number 941-06)

Renaissance (Edison) (942-25)

Sabis (942-09)

Boston Maritime (Edison) (943-06)

Lowell (Edison) (943-07)

Worcester (Edison) (943-08)

Holyoke (Edison) (943-09)

Small Business Applications

Intentional Education (941-10)

Valley Education Services (942-05)

Heuristics (942-13)

South Shore (Dovetail) 943-10

Higher Education Applications

Worcester State College (941-07)

Pathway (942-18)

Lowell Middlesex Community College (942-20)

Boston University (942-23)

Fenway (943-11)

Franklin Institute (943-13)

Community Service Organization Applications

Lawrence Family Development (941-02)

Hyde Foundation (941-07)

Greater Lawrence YMCA (941-09)

Pro-Arts Consortium (941-11)

ACORN (942-15)

Choice Through Education (942-19)

Island School (942-21)

Youth Build (942-22)

Neighborhood House (942-24)

One with One (942-27)

Boston Ballet (942-32)

Swami Vivekananda (942-33)

Lawrence Community Day Care (943-02)

Educator Applications

Valley Charter (941-01)

Cape Cod Center (941-04)

Scione, James A. (942-01)

Fenway/Mission Hill (942-06)
Martha's Vineyard (942-06)
C-CAPE (942-11)
Cambridge (942-29)
Riverside (942-34)
Central Secondary (942-36)
McKenzie (942-37)
City on a Hill (943-01)

Parent Applications
Metropolitan South West (941-03)
Mattapan (941-05)
Charter Education Alternative (941-12)
Center for Reinventing Education (941-13)
Cape Code Lighthouse (942-03)
Summit (942-10)
Franklin (942-16)
Cambridge (942-29)
Parker (943-04)
Dabrowski (943-12)
South Coastal (942-14)

Citizen Applications
Atlantis (942-02)
Gloucester (942-26)
Henry Buckner High (942-08)
Marblehead (942-30)
Nantucket (942-31)
Riverside (942-34)
Diamond (942-35)
Uxbridge (943-08)

Nature of the Schools Proposed by Applicants

Generalizations about the location, motivation, target student market, grades and size of the schools proposed by each type of applicant are based primarily on what members of each applicant group proposed in their applications and on what members of the applicant teams revealed in the course of remarks made in private conversations and during observed meetings. Tables A.1 through A. 6 record the size and grades of proposed schools.

Table A.1.

Size and Grades of Schools Proposed by Business

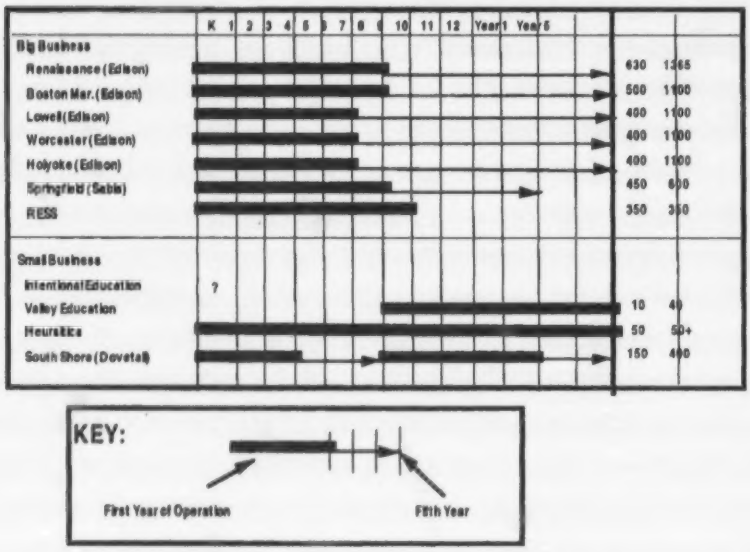

Table A.2..

Size and Grades of Schools Proposed by Higher Education

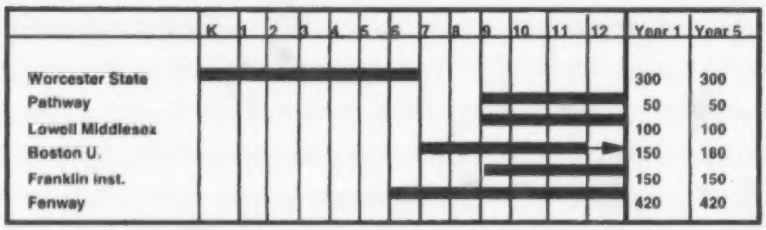

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Table A.3.

Size and Grades of Schools Proposed By Community Service Organizations

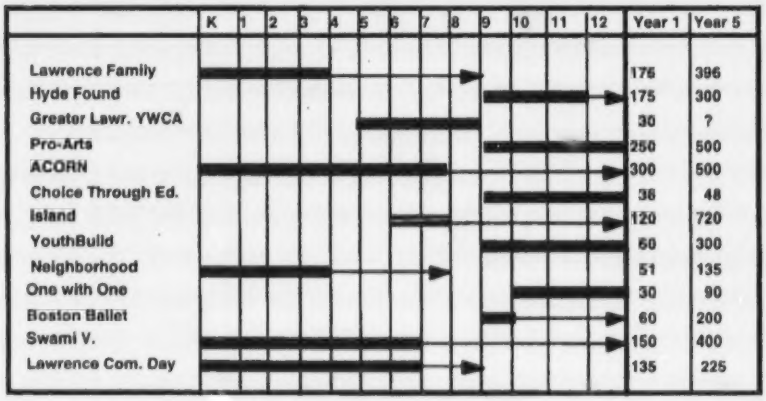

K 1 2 3 4 5 6 7 8 9 10 11 12
Year 1
Year 5
Lawrence Family 175 396
Hyde Found 175 300
Greater Lawr. YWCA 30 ?
Pro-Arts 250 500
ACORN 300 500
Choice Through Ed. 36 48
Island 120 720
YouthBuild 60 300
Neighborhood 51 135
One with One 30 90
Boston Ballet 60 200
Swami V. 150 400
Lawrence Com. Day 135 225

Table A.4.

Size and Grades of Schools Proposed by Educator Groups

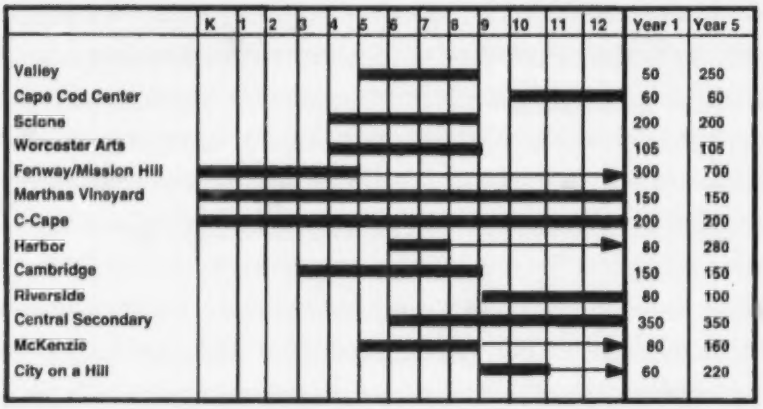

K 1 2 3 4 5 6 7 8 9 10 11 12
Year 1
Year 5
Valley 50 250
Cape Cod Center 60 60
Sclone 200 200
Worcester Arts 105 105
Fenway/Mission Hill 300 700
Marthas Vineyard 150 150
C-Cape 200 200
Harbor 60 280
Cambridge 150 150
Riverside 80 100
Central Secondary 350 350
McKenzie 80 160
City on a Hill 60 220

Table A.5.

Size and Grades of Schools Proposed by Citizen and Parent Groups

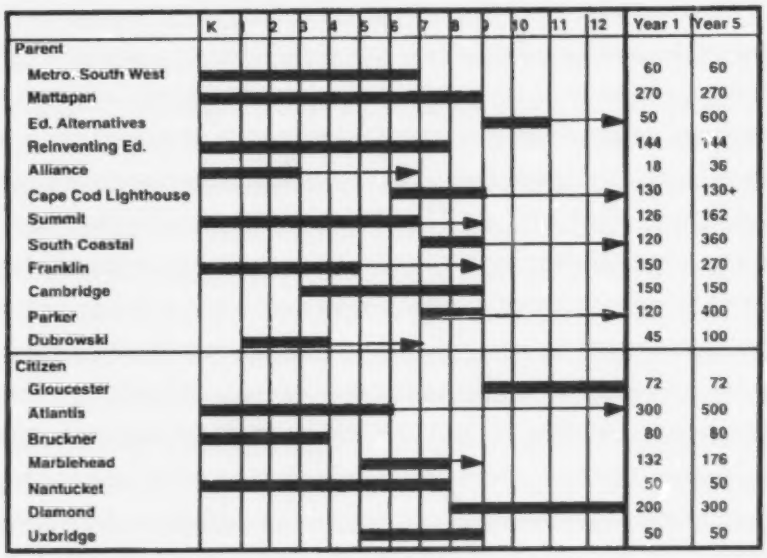
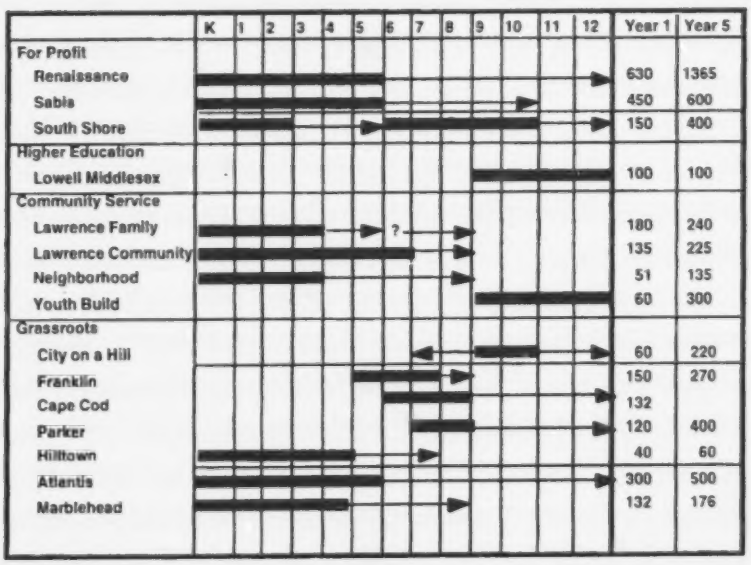


Table A.6.

Size and Grades of Schools Proposed by the First Charter Holders



Capabilities of Applicants

The list of the capabilities required of Massachusetts charter holders is based on a review of the statute; the application form, regulations and advisories developed by EOE; the Massachusetts Charter School Handbook developed by Pioneer's Charter School Resource Center's; discussions with applicants, charter holders and professionals providing technical assistance; and observation of issues raised at various meetings.

Generalizations about the capabilities of the different categories of applicants are based on a review of how related issues were addressed in the applications; discussions with individuals providing specialized technical support to different applicant groups and government officials who reviewed charter applications and oversaw charter holders efforts to start their schools; observations of the issues discussed by charter applicants and holders at various meetings; and discussions with charter applicants and charter holders.

Regarding assessments about the capabilities of grassroots applicants, several individuals who reviewed this report formally and informally (including Linda Brown, Jim Peyser, Kay Merseth and Nancy Brigham) have mentioned willpower as a factor that counterbalanced the grassroots charter holders' other weaknesses and suggested or implied that it should have been part of the analysis of all applicants' capabilities. Unfortunately, no effort was made to assess the willpower of the first 65 applicants. Moreover, it is not clear how this might have been done given available resources.

While most of the seven grassroots applicant teams granted charters were stronger in the capabilities examined in this section than grassroots applicants as a whole, willpower might have been the factor that distinguished them the most. On the other hand, observation of the first 15 applicants to receive charters and open schools suggests that every team was fairly strong in this area and leadership was not a factor that distinguished one category of applicant from another. The leaders of every team went to great lengths and made great personal sacrifices to get their charters and start their schools. Moreover, willpower was not something that could be assessed for the applicants that did not receive charters without going well beyond their applications and observation of the general meetings many attended. The best proof of willpower is results, but applicants who did not receive charters may nevertheless have been strong in that area. Willpower may be a factor distinguishing those who should receive charters from those who should not, but it is hard to identify beforehand and particularly on the basis of an application and an interview.

Moreover, it is hard not to suspect that willpower is uniformly distributed across and randomly within applicant categories.

Assessment of Sources of Technical Assistance, Professional Expertise, Facilities, and Finance

Judgments about the availability and quality of various forms of technical support are based on efforts to identify individuals and institutions providing such support to charter applicants on a *pro bono* or fee basis, observation of their remarks at various meetings and of support actually given, review of materials these individuals generated, discussions with charter applicants and charter holders and the state officials responsible for overseeing the charter program.

Most of the formal technical assistance given to more than one applicant or charter holder came from Pioneer. Assessment of the functions performed by a technical assistance organization are based on close observation of every different type of activity performed by the Resource Centers on numerous occasions. In many cases, individuals with technical expertise who were not connected with Pioneer, were introduced to charter applicants and holders through the Resource Center. Many of these individuals were interviewed or observed in other settings.

Discussion of the idea of a charter schools association is based on observation of the debates observed during meetings of charter holders and private discussions with applicants, officials, and others involved with charter schools.

Identification of charter school facilities is based on observation of the facility and/or review of reports submitted to the Secretary of Education. Discussion of facilities and finance issues are based on discussions with applicants, holders, government officials, members of the Resource Center, and bankers.

The Role of Government

Assessments of EOE and the state legislature are based on discussions with staff in EOE, other state government officials, and members of the Pioneer staff; observation of meetings held by the EOE staff, and remarks made by applicants and charter holders. Assessment of the role of local government is based on these same sources, and a review of articles in print media including:

1. "New ed plan is a plum for private sector," Connie Paige, *The Boston Herald*, March 19, 1994, p.8.

2. "Charters awarded for 15 schools," *The Boston Globe*, March 19, 1994, p.15.

3. "Great start for charter schools," Editorial, *Boston Herald*, March 19, 1994, p.12.

4."Snake oil for schools," *Boston Globe*, David B Cohen, rep from Newton, May 7, 1994

5. "Nauset to compete with charter school," Robin Lord, *Cape Cod Times*, December 15, 1994

6. "Charter schools get nod to open: 14 get state backing; Edison Project short," Jordanna Hart, *Boston Globe*, December 10, 1994, p.13

7. "Goodman asking for injunction against charter school funding," Jamie Guener, *Marblehead Reporter*, June 29, 1995, p.1

8. "$8m aid to public schools backed," Doris Sue Wong, *Boston Globe*, May 19, 1995, p.29.

9. "Charter School cites support," Richard Duckett, *Worcester Telegram & Gazette*, July 11, 1995, p.15.

10. "Charter Schools tapping a desire for change," Kate Zernike, (Quincy) *Patriot Ledger*, July 8, 1995, p.1

11. "Charter Schools are full for fall," Robert W. Trott, *Lynn Daily Evening Item*, June 17, 1995, p. 1.

12. "Charter school tango: Support is needed, not doubletalk." Editorial, *Worcester Telegram and Gazette*, July 5, 1995, p.

13. "Schools embrace similar ideology," Rachel Zoll, *Salem Evening News*, February 22, 1995, p.1.

14. "Advocates split on statistics," Rachel Zoll, *Salem Evening News*, February 23, 1995, p.1.

16. "We have held the line," Meline Kasparian, Mass Teachers Assoc. VP, *MTA Today*, December 1994.

17. "Funding charter schools proves bitter topic," Jordana Hart, *Boston Globe*, February 27, 1995, p. 17.

18. "Charter School Applicants wait for state ruling," Elisa Boxer, *Lowell Sun*, March 13, 1995, p.5.

19. "Top education official lends support to charter schools," William R. McDermott, *The Hull Times*, January 19, 1995, p.1.

20. "Charter plan for school embraced," Mary Ellen O'Shea, *Springfield Union News*, March 15, 1995, p. 13.

21. "Emotions Kill DeBerry Plan," Susannah Pugh, *Springfield Sunday Republican*, March 12, 1995, p. A-13.

22. "Parents watch debate over charter school," Rachel Zoll, *Salem Evening News*, February 21, 1995, p. 1.

23. "Communities Rebel Against State Charter School Experiment," Leslie Miller, *Cape Codder* (Orleans), February 10, 1995, p.5.

24. "New Charter School approved in Cambridge," Margaret M. Ou, *Harvard Crimson*, February 16, 1995, p. 1.

25. "Classrooms of the future," Kate Zernike, *The Patriot-Ledger*, February 4, 1995, p.1.

26. It's time for a swift exit," editorial, *Boston Herald*, January 30, 1995

27. "State funding sought for charter schools," Doris Sue Wong, *Boston Globe*, March 26, 1995, p.

28. "Applicants flood charter school rolls," Don Aucoin and Doris Sue Wong, *Boston Globe*, March 26, 1995, p.

29. Uproar grows on Charter Schools," John Laidler, *Boston Globe*, March 12, 1995, p.1.

30. "Certification spurned," Thomas Grillo, *Boston Globe*, April 16, 1995, p.A9

31. "Open doors at charter schools," editorial, Boston Globe, March 16, 1995

32. "Local Funding of charter schools is unfair to public schools," John D. MacLean Jr. (Superintendent of Schools, Hull), *Patriot Ledger* (Quincy), March 18, 1995., p.

33. "No, they provide healthy competition," James A. Peyser (Executive Director, Pioneer Institute), *Boston Globe*, April 27, 1995

34. "Charter school gets old building, Doris Sue Wong, *Boston Globe*, March 3, 1995, p.21

35. "Charter fund fight brewing." Sean Leonard, *Salem Evening News*, March 3, 1995, p. 1.

36. "Charting a new course with charter schools," Shawn Michael Smith, *West Roxbury Transcript*, March 15, 1995, p. 1

37. "Marblehead school backers say they're harassed," Jordanna Hart, *Boston Globe*, August 23, 1995, p. 1.

38. "Charting a Revolution," *Massachusetts Lawyer's Weekly*, Claire Papanastasiou Rattigan, July 24, 1995, p. B1.

B. The Massachusetts Charter School Statute

Mass. Ann. Laws ch. 71, §89 (Law. Coop. 1993)

§ 89. Charter schools.

A charter school shall be a public school, operated under a charter granted by the secretary of education, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a charter school, upon receiving a charter from the secretary of education, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

The purposes for establishing charter schools are: (l) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs and; (6) to hold teachers and school administrators accountable for students' educational outcomes.

Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to, a business or corporate entity, two or more certified teachers or two or more parents. Said application may be filed in conjunction with a college, university, museum or other similar entity. Private and parochial schools shall not be eligible for charter school status.

The secretary of education shall establish the information needed in an application for the approval of a charter school; provided, however, that said application shall include the method for admission to a charter school. There shall be no application fee for admission to a charter school.

Applications to establish a charter school shall be submitted each year by February fifteenth. The secretary of education shall review the applications no later than March fifteenth.

The secretary of education shall make the final determination on granting charter school status and may condition charters on the charter school's taking certain actions or maintaining certain conditions. No more than twenty-five charter schools shall be allowed to operate in the commonwealth at any time. Of these, no more than five shall be located in the city of Boston; no more than five shall be located in the city of Springfield; and no more than two shall be located in any other city or town. Under no circumstances shall the total number of students attending charter schools in the commonwealth he allowed to be greater than three-quarters of one percent of the total number of students attending public schools in the commonwealth.

A charter school established under a charter granted by the secretary shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:

(a) to adopt a name and corporate seal; provided, however, that any name selected must include the words "charter school"

(b) to sue and be sued, but only to the same extent and upon the same conditions that a town can be sued;

(c) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility;

(d) to receive and disburse funds for school purposes;

(e) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the board intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the secretary, either as part of the original charter or by way of an amendment thereto; provided, further, that the secretary shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;

(f) to incur temporary debt in anticipation of receipt of funds;

(g) to solicit and accept any grants or gifts for school purposes;

(h) to have such other powers available to a business corporation formed under chapter one hundred and fifty-six B that are not inconsistent with this chapter.

Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language, and academic

achievement. Charter schools may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science or the arts.

A charter school may establish reasonable academic standards as a condition for eligibility for applicants. Preference for enrollment in a charter school shall be given to students who reside in the city or town in which the charter school is located. If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are siblings of students already attending said charter school is greater than the number of spaces available, then an admissions lottery shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more eligible applicants than spaces left available, then a lottery shall be held to determine which of said applicants shall be admitted. There shall be no tuition charge for students attending charter schools.

A student may withdraw from a charter school at any time and enroll in a public school where said student resides. A student may be expelled from charter school based on criteria determined by the board of trustees, and approved by the secretary of education, with the advice of the principal and teachers.

A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease or rent its space.

A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that the provisions of sections forty-one and forty-two shall not apply to employees of charter schools. Charter schools shall comply with the provisions of chapters seventy-one A and seventy-one B; provided, however, that the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides.

Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board of education for students in other public schools.

The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget.

Employees of charter schools shall be considered public employees for purposes of tort liability under chapter two hundred end fifty-eight and for collective bargaining purposes under chapter one hundred and fifty E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter two hundred and fifty-eight and for collective bargaining purposes under said chapter one hundred and fifty E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter thirty-two and service in a charter school shall be "creditable service" within the meaning thereof.

Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave in order to teach in charter schools. A teacher may request a leave of absence for up to two years.

At the end of the two year period, the teacher may make a request to the superintendent that such leave be extended for an additional two years, and approval for said request shall not be unreasonably withheld or he may return to his former teaching position. At the end of the fourth year, the teacher may either return to his former teaching position or, if he chooses to continue teaching at the charter school, resign from his school district position.

Notwithstanding section fifty-nine C, the internal form of governance of a charter school shall be determined by the school's charter.

A charter school shall comply with all applicable state and federal health and safety laws and regulations.

The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on the same terms and conditions as transportation is provided to children attending local district schools. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section twelve B of chapter seventy-six.

Each charter school shall submit to the secretary, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school an annual report. The annual report shall be issued no later than August first of each year for the preceding school year. The annual report shall be in such form as may be prescribed by the secretary of education and shall include at least the following components:

(a) discussion of progress made toward the achievement of the goals set forth in the charter;

(b) a financial statement setting forth by appropriate categories, the revenue and expenditures for the year just ended.

Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the secretary of education who shall investigate such complaint and make a formal response.

A charter granted by the secretary of education shall be for five years. The secretary of education may revoke a school's charter if the school has not fulfilled any conditions imposed by the secretary of education in connection with the grant of the charter or the school has violated any provision of its charter. The secretary may place the charter school on probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

The secretary shall develop procedures and guidelines for revocation and renewal of a school's charter.

Notwithstanding the foregoing, no school building assistance funds, so-called, shall be awarded to a charter school for the purpose of constructing, reconstructing or improving said school.

Charter schools shall be funded as follows: If a student attending a charter school resides in a community with a positive foundation gap, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the average cost per student in said district. If a student attending a charter school resides in a community that does not have a positive foundation gap pursuant to chapter seventy, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the lesser of: (l) the average cost per student in said district; and (2) the average cost per student in the district in which the charter school is located.

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